

FORM NLRB-502 (RM)
(2-15)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
RM PETITION

DO NOT WRITE IN THIS SPACE

Case No.
16-RM-299446Date Filed
7/14/22

INSTRUCTIONS: Unless a Filed using the Agency's website, www.nlrb.gov/, submit an original of this Petition to an NLRB Office in the Region in which the employer concerned is located. The petition must be accompanied by a certificate of service showing service on all parties named in the petition of the following: (1) the petition; (2) Statement of Position form; and (3) Description of Procedures in Certification and Decertification Cases (Form NLRB 4812). The petition must also be accompanied by evidence supporting the statement that a labor organization has made a demand for recognition on the employer or that the employer has good faith uncertainty about majority support for an existing representative. However, if the evidence reveals the names and/or number of employees who no longer wish to be represented, the evidence shall not be served on any party.

1. PURPOSE OF THIS PETITION: RM-CERTIFICATION OF REPRESENTATIVE. One or more individuals or labor organizations have presented a claim to the Employer/Petitioner to be recognized as the representative of employees of the Employer/Petitioner or the Employer/Petitioner has a good faith uncertainty about majority support for an existing representative. If a charge under Section 8(b)(7) of the Act has been filed involving the Employer/Petitioner named in this petition, this statement shall not be deemed made. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer/Petitioner: Mestek, Inc.	2b. Address(es) of Establishment(s) involved (Street and number, City, State, ZIP code): 4830 Transport Dr, Dallas, TX 75247
3a. Employer/Petitioner Representative - Name and Title: Brendan L. Hughes, Esq.	3b. Address (if same as 2b - state same): One Monarch Place-Suite 1200, Springfield, MA 01144-1200

3c. Tel. No. (413) 736-4538	3d. Cell No.	3e. Fax No. (413) 731-8206	3f. E-Mail Address Brendan.Hughes@sullivanandhayes.com
4a. Type of Establishment (Factory, mine, wholesaler, etc.) Factory		4b. Principal Product or Service HVAC and Metal Forming	

5a. Description of Unit Involved: Included: All hourly paid production and maintenance employees at its 4830 Transport Drive. Excluded:	5b. City and State where unit is located: Dallas, TX 5c. Number of Employees in Unit: See Attached List
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Unless a charge alleging a violation of Section 8(b)(7) is pending, check EITHER item 7a or 7b, whichever is applicable

- ☐ 7a. A labor organization made a demand for recognition on the Employer/Petitioner on (Date) _____
☒ 7b. The Employer/Petitioner has a good faith uncertainty about majority support for an existing representative.

8a. Name of Recognized or Certified Bargaining Agent - Name Sheet Metal Workers International Association AFL-CIO - Local #68	8b. Affiliation, if any:
8c. Address: 1020 S Industrial Blvd Euless, TX 76040	8d. Tel. No. 8e. Cell No. 8f. Fax No. 8g. E-Mail Address (b) (6), (b) (7)(C) @smart-swagcc.org

9. Date of Recognition or Certification Unknown-Only have records dating back to 2009	10. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year) 7/31/21
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11. Is there now a strike or picketing at the Employer's establishment(s) involved? ☒ No ☐ Yes If so, approximately how many employees are participating? _____
 (Name of Labor Organization) _____ has picketed the Employer since (Month, Day, Year) _____

12. Organizations or individuals other than those named in item 8, which have a contract with the Employer/Petitioner or represent employees of the Employer/Petitioner or demanded recognition as representatives and other organization and individuals known to have a representative interest in any employees in the unit described in item 5 above (if none, so state)
None

12a. Name and affiliation if any N/A	12b. Address	12c. Tel. No.	12d. Cell No.
		12e. Fax No.	12f. E-Mail Address

13. Election Details: if the NLRB conducts an election in this matter, state your position with respect to any such election:
See Position Statement

13a. Election Type <input type="checkbox"/> Manual <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail	13b. Election Date(s): As soon as possible	13c. Election Time(s): As soon as possible	13d. Election Location(s): N/A
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14a. Name and Title: Brendan L. Hughes, Esq.	14b. Address (street and number, city, State and ZIP code) Sullivan, Hayes & Quinn, LLC, One Monarch Place, Suite 1200, Springfield, MA 01144-1200
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14c. Tel. No. (413) 736-4538	14d. Cell No.	14e. Fax No. (413) 731-8206	14f. E-Mail Address Brendan.Hughes@sullivanandhayes.com
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I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print) (b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	Date 7/13/22
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WARNING: FALSE STATEMENTS ON THIS PETITION MAY BE CAUSED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Collection of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

One Monarch Place - Suite 1200
Springfield, MA 01144
Telephone: (413) 736-4538
Fax: (413) 731-8206



Fax

To:	Sir/Madam	From:	(b) (6), (b) (7)(C)
Company:	National Labor Relations Board Region 16	Pages:	2 (including cover)
Fax:	(817) 978-2928	Date:	7/14/2022
Re:	Certificate of Service for RM Petition with Supporting Documentation filed earlier today	cc:	

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• **Comments:**

Mestek, Inc. and Sheet Metal Workers International Association, Local #68

CONFIDENTIALITY NOTICE

The information in this facsimile is confidential and intended only for the use of the addressee. The data transmitted is attorney privileged and may be exempt from disclosure. Do not copy or distribute to anyone other than the addressee. Reliance on this data by other than the intended recipient is prohibited. Please notify us immediately if you have received this communication in error. Upon notification we will arrange for return of the fax copies to Sullivan, Hayes & Quinn, LLC. Thank you for your assistance.

THE ORIGINAL OF THIS DOCUMENT WILL BE SENT BY:

- () REGULAR MAIL
- () MESSENGER
- () OVERNIGHT
- (X) THIS WILL BE THE ONLY FORM OF DELIVERY

Form NLRB-5544
(5-2015)

CERTIFICATE OF SERVICE

Employer Name: Mestek, Inc.

Service on the Employer

I hereby certify that on _____ (date), a copy of the petition involving the Employer named above, a Statement of Position (Form NLRB-505), and a Description of Procedures (Form NLRB-4812) were served on the Employer by: (check whichever is applicable)

- ☐ e-mail to the email address shown on the petition.
- ☐ facsimile (with the permission of the Employer) to the facsimile number shown on the petition.
- ☐ overnight mail to the mailing address shown on the petition.
- ☐ hand-delivery to _____ (name of Employer's representative) at the following address: _____

Service on the Other Party Named in the Petition

I hereby certify that on 7/14/22 (date), a copy of the petition involving the Employer named above, a Statement of Position (Form NLRB-505), and a Description of Procedures (Form NLRB-4812) were also served on Steel Metal Workers Int'l Assoc., AFL-CIO Local #68 (name of party or parties) by: (check whichever is applicable)

- ☒ email to the email address shown on the petition.
- ☐ facsimile (with the permission of the party) to the facsimile number shown on the petition.
- ☒ overnight mail to the mailing address shown on the petition.
- ☐ hand-delivery to _____ (name of party's representative) at the following address: _____

Service on the Other Party Named in the Petition

I hereby certify that on _____ (date), a copy of the petition involving the Employer named above, a Statement of Position (Form NLRB-505), and a Description of Procedures (Form NLRB-4812) were also served on _____ (name of party or parties) by: (check whichever is applicable)

- ☐ email to the email address shown on the petition.
- ☐ facsimile (with the permission of the party) to the facsimile number shown on the petition.
- ☐ overnight mail to the mailing address shown on the petition.
- ☐ hand-delivery to _____ (name of party's representative) at the following address: _____



Signature

Brendan L. Huges, Esq.

Name and Title

July 14, 2022

Date

Date

NATIONAL LABOR RELATIONS BOARD

MESTEK, INC.,

Petitioner,

v.

SHEET METAL WORKERS INTERNATIONAL
ASSOCIATION AFL-CIO - LOCAL #68.,

Respondent.

NLRB Case No.: _____

AFFIDAVIT OF (b) (6), (b) (7)(C)

I, (b) (6), (b) (7)(C) do hereby depose and say the following upon personal knowledge and belief:

1. My name is (b) (6), (b) (7)(C)
2. I make this Affidavit in connection with the above-captioned matter.
3. I am employed by the respondent, Mestek, Inc, as its (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
5. Among other things, my job responsibilities include (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) for the company at its Dallas, Texas facility and being (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
6. Sheet Metal Workers International Association AFL-CIO, Local #68 ("Union") was the recognized bargaining agent for employees.
7. The last Collective Bargaining Agreement ("CBA") between the Parties was in effective from August 1, 2016 to July 31, 2021. See Exhibit 1.
8. The Union did not seek to renew the CBA or to begin negotiations for a new CBA.
9. During the term of the 2016 – 2021 CBA, there had been no representation activity at the facility or any employee mention whatsoever of the Union apart from one employee asking about no longer paying dues.
10. Records indicate that out of 98 employees, only 14 employees had signed authorization for dues deductions.

11. At some point payroll stopped taking Union dues and the Union has never questioned the lack of dues. No employee has ever questioned the fact there are no union dues deductions.
12. Records indicate that during the term of the CBA, 1 employee requested, in writing, that the Company cease from taking dues deductions.
13. On May 26, 2022 a termination of CBA and Anticipatory Withdrawal of Recognition was sent via electronic mail and federal express to the last know contact for the Union. See Exhibit 2. As of this date, there has been no response to the termination notice by either the Union or any bargaining unit employees. In this regard, over thirty days have passed and the Union has not sought to negotiate a new Collective Bargaining Agreement.
14. Based on all of the foregoing, I have reasonable uncertainty of the Union's continued majority support from the bargaining unit.

I have read the above 14 Paragraphs and it is true to the best of my knowledge and belief.

(b) (6), (b) (7)(C)

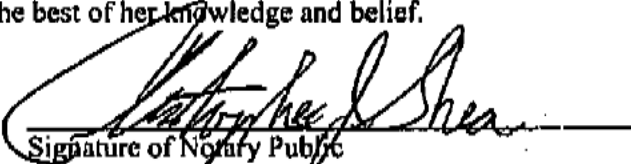
Sworn to before me this 13th day of July, 2022.

COMMONWEALTH OF MASSACHUSETTS

Hampden County, ss.

July 13 2022

On this 13th day of June, 2022, before me, the undersigned notary public, personally appeared Joanne Berwald, who proved to me through satisfactory evidence of identification to be the person whose name is signed on this document and who affirmed to me that the contents of the document are truthful and accurate to the best of her knowledge and belief.


Signature of Notary Public

Christopher J. Shea
NOTARY PUBLIC

Name of Notary Public, Typed or Stamped

Notary Public, State of Massachusetts

My Commission expires: January 11, 2024



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 16
819 Taylor St Rm 8A24
Fort Worth, TX 76102-6107

Agency Website: www.nlrb.gov
Telephone: (817)978-2921
Fax: (817)978-2928



Download
NLRB
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July 15, 2022

URGENT

MESTEK, INC.
4830 TRANSPORT DR
DALLAS, TX 75247

BRENDAN L. HUGHES, ESQ.
SULLIVAN, HAYES & QUINN
ONE MONARCH PLACE, SUITE 1200
SPRINGFIELD, MA 01144-1200
brendan.hughes@sullivanandhayes.com

Re: MESTEK, INC.
Case 16-RM-299446

DEAR PARTIES:

The enclosed petition that you filed with the National Labor Relations Board (NLRB) has been assigned the above case number. After a petition is filed, the employer is required to promptly take certain actions so please read this letter carefully to make sure you are aware of the employer's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the requirement to post and distribute the Notice of Petition for Election, the requirement to complete and serve a Statement of Position Form, the Petitioner's requirement to complete and serve a Responsive Statement of Position Form, a scheduled hearing in this matter, other information needed including a voter list, your right to be represented, and NLRB procedures, including how to submit documents to the NLRB.

Investigator: This petition will be investigated by Field Examiner PAUL SYKES whose telephone number is (682)703-7788. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If the agent is not available, you may contact Supervisory Field Examiner MEIKE ZIEGLER whose telephone number is (682)703-7226. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

Required Posting and Distribution of Notice: You must post the enclosed Notice of Petition for Election by **July 22, 2022**, in conspicuous places, including all places where notices to employees are customarily posted. The Notice of Petition for Election must be posted so all pages are simultaneously visible. If you customarily communicate with your employees

electronically, you must also distribute the notice electronically to them. You must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Posting and distribution of the Notice of Petition for Election will inform the employees whose representation is at issue and the employer of their rights and obligations under by the National Labor Relations Act in the representation context. Failure to post or distribute the notice may be grounds for setting aside the election if proper and timely objections are filed.

Originals of Good Faith Uncertainty: If you submitted by E-Filing or facsimile, evidence supporting a good faith uncertainty, the original documents containing handwritten signatures must be delivered to the Regional office within **2 business days after the filing**. If the originals are not received within that time the Region will dismiss your petition.

Responsive Statement of Position: The Employer-Petitioner must file a Responsive Statement of Position and submit it to an NLRB Office in the Region in which the petition was filed such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing, and serve it and any attachments on each party named in the petition in this case. The Employer-Petitioner shall file a list of the employee names and related information in the manner set forth in the instructional sheet to this Form. You should also complete and file with the Board a Questionnaire on Commerce Information. If another party has submitted and served on you a timely Statement of Position to an RM petition, the Petitioner-Employer must also include its response to each issue raised in another party's statement of position. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner-Employer.

List of Employees: The Employer's Responsive Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or

inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Notice of Hearing: Enclosed is a Notice of Hearing to be conducted at **9:00 AM on Thursday, August 4, 2022, by videoconference**, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the Regional Director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the Regional Director may postpone the hearing. A party desiring postponement should make the request to the Regional Director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Other Information Needed Now: Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any of your employees in the unit involved in the petition (the petitioned-for unit);
- (b) The name and contact information for any other labor organization (union) claiming to represent any of the employees in the petitioned-for unit;
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.

Voter List: If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. I am advising you of this requirement now, so that you will have ample time to prepare this list. When feasible, the list

must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, www.nlr.gov, or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy L. Watson", with a stylized flourish at the end.

TIMOTHY L. WATSON
REGIONAL DIRECTOR

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)



National Labor Relations Board



NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that MESTEK, INC. has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 16-RM-299446 seeking an election to determine if its employees in the unit set forth below wish to be represented by SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, AFL-CIO, LOCAL UNION 68 for the purposes of collective bargaining:

Included: All hourly paid production and maintenance employees at its 4830 Transport Drive.

Excluded: Other employees, guards and supervisors as defined in the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- **Threatening loss of jobs or benefits by an employer or a union**
- **Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises**
- **An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity**
- **Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return**
- **Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals**
- **Threatening physical force or violence to employees by a union or an employer to influence their votes**

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to www.nlr.gov or contact the NLRB at (817)978-2921.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



National Labor Relations Board





**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 16**



MESTEK, INC. Employer/Petitioner and SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, AFL-CIO, LOCAL UNION 68 Union	Case 16-RM-299446
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NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 9:00 AM on **Thursday, August 4, 2022** and on consecutive days thereafter until concluded, by videoconference, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, AFL-CIO, LOCAL UNION 68 must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon July 27, 2022**. MESTEK, INC. shall file and serve its Responsive Statement of Position, which should include a response to any issues raised in the Union's Statement of Position, and a list of the employee names and related information in the manner set forth in Section 102.63(b)(2) of the Board's Rules and Regulations, by no later than **noon August 1, 2022**.

Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website (www.nlrb.gov), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#)

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon Central on the due date** in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: July 15, 2022

A handwritten signature in black ink, appearing to read "Timothy L. Watson", written in a cursive style.

TIMOTHY L. WATSON
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 16
819 Taylor Street, Room 8A24
Fort Worth, Texas 76102-6107

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

MESTEK, INC. Employer/Petitioner and SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, AFL-CIO, LOCAL UNION 68 Union	Case 16-RM-299446
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AFFIDAVIT OF SERVICE OF: Petition dated July 14, 2022, Notice of Representation Hearing dated July 15, 2022, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on July 15, 2022, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

BRENDAN L. HUGHES, ESQ.
SULLIVAN, HAYES & QUINN
ONE MONARCH PLACE, SUITE 1200
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(b) (6), (b) (7)(C)

SHEET METAL WORKERS
INTERNATIONAL ASSOCIATION,
LOCAL UNION 68, AFL-CIO
1020 S INDUSTRIAL BLVD
EULESS, TX 76040-5841

(b) (6), (b) (7)(C)@smart-swgcr.org

July 15, 2022

Date

OFLIA GONZALEZ, Designated Agent of NLRB

Name

/s/ OFELIA GONZALEZ

Signature

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

Right to be Represented – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at www.nlr.gov or forward it to the NLRB Regional Office handling the petition as soon as possible.

Filing and Service of Petition – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

Notice of Hearing – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

Hearing Postponement: Requests to postpone the hearing are not routinely granted, but the Regional Director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website (www.nlr.gov) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Statement of Position Form and List(s) of Employees – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional

form for the list is provided on the NLRB website at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The Regional Director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Responsive Statement of Position – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The Regional Director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Posting and Distribution of Notice of Petition for Election – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

Election Agreements – Elections can occur either by agreement of the parties or by direction of the Regional Director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the Regional Director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the Regional Director's post-election determinations. A Full Consent Agreement provides that the Regional Director will make final determinations regarding all pre-election and post-election issues.

Hearing Cancellation Based on Agreement of the Parties – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

Hearing – A hearing will be held unless the parties enter into an election agreement approved by the Regional Director or the petition is dismissed or withdrawn.

Purpose of Hearing: The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

Issues at Hearing: Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the Regiona Director determines that record evidence is necessary.

Preclusion: At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Conduct of Hearing: If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the Regiona Director as soon as possible and request the necessary assistance.

Official Record: An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the Regiona Director.

Motions and Objections: All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the Regiona Director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

Election Details: Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the Regional Director should transmit the Notice of Election if an election is directed; (3) inform the parties that the Regional Director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

Oral Argument and Briefs: Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the Regional Director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, www.nlr.gov.

Regional Director Decision - After the hearing, the Regional Director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the Regional Director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

Voter List – The employer must provide to the Regional Director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the Regional Director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the Regional Director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the Regional Director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

Waiver of Time to Use Voter List – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

Election – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

Withdrawal or Dismissal – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the Regional Director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM

Completing and Filing this Form: The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at www.nlr.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.

Required Lists: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

Consequences of Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE

Case No.

16-RM-299446

Date Filed

July 14, 2022

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be <i>added</i> to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be <i>excluded</i> from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative		9b. Signature of authorized representative	9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER

16-RM-299446

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

YES

NO

A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$ _____B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____H. **Gross Revenues** from all sales or performance of services (Check the largest amount)☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. Did you **begin operations within the last 12 months**? If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM

Completing and Filing this Form: For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at www.NLRB.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from www.NLRB.gov, the form will lock upon signature and no further editing may be made.**

Required List: In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Consequences of Failure to Submit a Responsive Statement of Position: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION

DO NOT WRITE IN THIS SPACE

Case No.
16-RM-299446

Date Filed
July 14, 2022

INSTRUCTIONS: If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

The Employer

An Intervenor/Union

1a. Full Name of Party Filing Responsive Statement of Position

1c. Business Phone

1d. Cell No.

1e. Fax No.

1f. E-Mail Address

1b. Address (Street and Number, City, State, and ZIP Code)

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

a. EMPLOYER NAME/IDENTITY [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

b. JURISDICTION [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

c. APPROPRIATENESS OF UNIT [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

d. INDIVIDUAL ELIGIBILITY [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

e. BARS TO ELECTION [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

f. ALL OTHER ISSUES [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

g. ELECTION DETAILS [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative

Signature of Authorized Representative

Date

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 16
819 Taylor St Rm 8A24
Fort Worth, TX 76102-6107

Agency Website: www.nlrb.gov
Telephone: (817)978-2921
Fax: (817)978-2928



Download
NLRB
Mobile App

July 15, 2022

URGENT

SHEET METAL WORKERS INTERNATIONAL
ASSOCIATION, LOCAL UNION 68, AFL-CIO
1020 S INDUSTRIAL BLVD
FULESS, TX 76040-5841

(b) (6), (b) (7)(C) @smart-swgcrc.org

Re: MESTEK, INC.
Case 16-RM-299446

DEAR PARTIES:

Enclosed is a copy of a petition that MESTEK, INC. filed with the National Labor Relations Board (NLRB) seeking an election involving certain employees for which you are the exclusive collective bargaining representative. Please read this letter carefully to make sure you are aware of the union's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the Employer's requirement to post and distribute the Notice of Petition for Election, the requirement that you complete and serve a Statement of Position Form, the petitioner's requirement to complete and serve a Responsive Statement of Position Form, a scheduled hearing in this matter, other information needed, your right to be represented, and NLRB procedures, including how to submit documents.

Investigator: This petition will be investigated by Field Examiner PAUL SYKES whose telephone number is (682)703-7788. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If the agent is not available, you may contact Supervisory Field Examiner MEIKE ZIEGLER whose telephone number is (682)703-7226. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

The Union's Required Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the union is required to complete the enclosed Statement of Position form, have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by **noon Central Time on July 27, 2022**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will not be timely if filed on the due date but after noon Central Time.** If

you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

The Employer's Required Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the employer is required to complete the enclosed Responsive Statement of Position form (including the attached Commerce Questionnaire), have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by **noon Central Time on August 1, 2022**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will not be timely if filed on the due date but after noon Central Time.**

List(s) of Employees: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first

column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional_Forms_for_Voter_List.docx

Notice of Hearing: Enclosed is a Notice of Representation Hearing to be conducted at **9:00 AM on Thursday, August 4, 2022, by videoconference**, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the Regional Director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the Regional Director may postpone the hearing. A party desiring a postponement should make the request to the Regional Director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Posting and Distribution of Notice: The Employer must post the enclosed Notice of Petition for Election by **July 22, 2022**, in conspicuous places, including all places where notices to employees are customarily posted. If it customarily communicates electronically with its employees in the petitioned-for unit, it must also distribute the notice electronically to them. The Employer must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Failure to post or distribute the notice may be grounds for setting aside the election if proper and timely objections are filed.

Other Information Needed Now: Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) The correct name of the Union as stated in its constitution or bylaws.
- (b) A copy of any existing or recently expired collective-bargaining agreements, and any addenda or extensions, or any recognition agreements covering any employees in the petitioned-for unit.
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) The name and contact information for any other labor organization (union) claiming to represent or have an interest in any of the employees in the petitioned-for unit and for any employer who may be a joint employer of the employees in the proposed unit. Failure to disclose the existence of an interested party may delay the processing of the petition.

Voter List: If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations,

shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the Employer must file the voter list with the Regional Office. However, a petitioner and/or union entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483, which is available on the NLRB's website or from an NLRB office. A waiver will not be effective unless all parties who are entitled to the voter list agree to waive the same number of days.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before the NLRB. In view of our policy of processing these cases expeditiously, if you wish to be represented, you should obtain representation promptly. Your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the NLRB. Their knowledge regarding this matter was obtained only through access to information that must be made available to any member of the public under the Freedom of Information Act.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, www.nlr.gov, or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy L. Watson". The signature is fluid and cursive, with a large, stylized "W" at the end.

TIMOTHY L. WATSON
REGIONAL DIRECTOR

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)



National Labor Relations Board



NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that MESTEK, INC. has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 16-RM-299446 seeking an election to determine if its employees in the unit set forth below wish to be represented by SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, AFL-CIO, LOCAL UNION 68 for the purposes of collective bargaining:

Included: All hourly paid Production and maintenance employees at its 4830 Transport Drive.

Excluded: Other employees, guards and supervisors as defined by the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- **Threatening loss of jobs or benefits by an employer or a union**
- **Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises**
- **An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity**
- **Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return**
- **Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals**
- **Threatening physical force or violence to employees by a union or an employer to influence their votes**

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to www.nlr.gov or contact the NLRB at (817)978-2921.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



National Labor Relations Board





UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 16



MESTEK, INC. Employer/Petitioner and SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, AFL-CIO, LOCAL UNION 68 Union	Case 16-RM-299446
--	--------------------------

NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at **9:00 AM on Thursday, August 4, 2022**, and on consecutive days thereafter until concluded, **by Videoconference**, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, AFL-CIO, LOCAL UNION 68, must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by **no later than noon July 27, 2022**. MESTEK, INC. shall file and serve its Responsive Statement of Position, which should include a response to any issues raised in the Union's Statement of Position, and a list of the employee names and related information in the manner set forth in Section 102.63(b)(2) of the Board's Rules and Regulations, by **no later than noon August 1, 2022**.

Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website (www.nlrb.gov), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#)

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon Central on the due date** in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: July 15, 2022

A handwritten signature in black ink, appearing to read "Timothy L. Watson". The signature is fluid and cursive, with a long horizontal stroke at the end.

TIMOTHY L. WATSON
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 16
819 Taylor Street, Room 8A24
Fort Worth, Texas 76102-6107

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

Right to be Represented – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at www.nlr.gov or forward it to the NLRB Regional Office handling the petition as soon as possible.

Filing and Service of Petition – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

Notice of Hearing – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

Hearing Postponement: Requests to postpone the hearing are not routinely granted, but the Regional Director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website (www.nlr.gov) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Statement of Position Form and List(s) of Employees – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional

form for the list is provided on the NLRB website at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The Regional Director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Responsive Statement of Position – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The Regional Director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Posting and Distribution of Notice of Petition for Election – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

Election Agreements – Elections can occur either by agreement of the parties or by direction of the Regional Director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the Regional Director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the Regional Director's post-election determinations. A Full Consent Agreement provides that the Regional Director will make final determinations regarding all pre-election and post-election issues.

Hearing Cancellation Based on Agreement of the Parties – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

Hearing – A hearing will be held unless the parties enter into an election agreement approved by the Regional Director or the petition is dismissed or withdrawn.

Purpose of Hearing: The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

Issues at Hearing: Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the Regiona Director determines that record evidence is necessary.

Preclusion: At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Conduct of Hearing: If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the Regiona Director as soon as possible and request the necessary assistance.

Official Record: An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the Regiona Director.

Motions and Objections: All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the Regiona Director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

Election Details: Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the Regional Director should transmit the Notice of Election if an election is directed; (3) inform the parties that the Regional Director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

Oral Argument and Briefs: Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the Regional Director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, www.nlr.gov.

Regional Director Decision - After the hearing, the Regional Director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the Regional Director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

Voter List – The employer must provide to the Regional Director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the Regional Director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the Regional Director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the Regional Director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

Waiver of Time to Use Voter List – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

Election – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

Withdrawal or Dismissal – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the Regional Director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM

Completing and Filing this Form: The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at www.nlr.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.

Required Lists: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

Consequences of Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE

Case No.

16-RM-299446

Date Filed

July 14, 2022

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be <i>added</i> to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be <i>excluded</i> from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative		9b. Signature of authorized representative	9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER

16-RM-299446

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

YES

NO

A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$ _____

B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____

C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____

D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____

E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____

F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____

G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____

H. Gross Revenues from all sales or performance of services (Check the largest amount)

☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

One Monarch Place – Suite 1200
Springfield, MA 01144
Telephone: (413) 736-4538
Fax: (413) 731-8206



Fax

To:	Sir/Madam	From:	(b) (6), (b) (7)(C)
Company:	National Labor Relations Board Region 16	Pages:	38 (including cover)
Fax:	(817) 978-2928	Date:	7/14/2022
Re:	RM Petition with Supporting Documentation	cc:	

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• Comments:

Mestek, Inc. and Sheet Metal Workers International Association, Local #68

CONFIDENTIALITY NOTICE

The information in this facsimile is confidential and intended only for the use of the addressee. The data transmitted is attorney privileged and may be exempt from disclosure. Do not copy or distribute to anyone other than the addressee. Reliance on this data by other than the intended recipient is prohibited. Please notify us immediately if you have received this communication in error. Upon notification we will arrange for return of the fax copies to Sullivan, Hayes & Quinn, LLC. Thank you for your assistance.

THE ORIGINAL OF THIS DOCUMENT WILL BE SENT BY:

- () REGULAR MAIL
() MESSENGER
() OVERNIGHT
(X) THIS WILL BE THE ONLY FORM OF DELIVERY

FORM NLRB-605
(12-20)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION

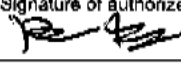
DO NOT WRITE IN THIS SPACE

Case No.

Date Filed

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in Item 7.

1a. Full name of party filing Statement of Position: Mestek, Inc.		1c. Business Phone: (214) 638-6010	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code): 4830 Transport Dr, Dallas, TX 75247		1d. Cell No.:	1f. e-Mail Address: (b) (6), (b) (7)(C) @mestek.com
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b.)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit. Added: Excluded:			
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing. Based upon the information presented in the sworn Affidavit attached hereto as "Exhibit 1", there is reasonable uncertainty regarding whether the current bargaining unit has majority support for the incumbent labor union. The NLRB should hold an election to determine whether majority support exists, and, thus, whether the Union should be certified.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015 (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D).			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s): As soon as possible	8c. Time(s): As soon as possible	8d. Location(s): N/A	
8e. Eligibility Period (e.g. special eligibility formula):	8f. Last Payroll Period Ending Date:	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative Brendan L. Hughes, Esq.	9b. Signature of authorized representative 	9c. Date 7/13/22	
9d. Address (Street and number, city, state, and ZIP code) Sullivan, Hayes & Quinn, LLC One Monarch Place, Suite 1200 Springfield, MA 01144-1200		9e. e-Mail Address Brendan.Hughes@sullivanandhayes.com	
9f. Business Phone No.: (413) 736-4538	9g. Fax No.: (413) 731-8206	9h. Cell No.:	

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(e) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Exhibit 1

AGREEMENT
BETWEEN
MESTEK, INC.
AND
SHEET METAL WORKERS INTERNATIONAL ASSOCIATION,
AFL-CIO
LOCAL #68

Exhibit 1

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Exhibit 1

Exhibit 1

THIS AGREEMENT, is made and entered into this 31st day of July, 2016 by and between MESTEK, INC. located at 4830 Transport Drive, Dallas, Texas 75247, hereinafter called the "Company" and the SHEET METAL WORKERS INTERNATIONAL ASSOCIATION AFL-CIO, LOCAL #68, hereinafter called the "Union", and the hourly employees of the Company as defined in the bargaining unit set forth in Article 1.

**ARTICLE 1
RECOGNITION**

Section 1. The Company recognizes the Union as the sole and exclusive representative for the purposes of collective bargaining with respect to wages, hours and working conditions for all hourly paid production and maintenance employees at its 4830 Transport Drive, Dallas, Texas plant, excluding all salaried employees, clerical and professional employees, guards, and supervisors as defined in the Act, and all other employees.

Section 2. Excluded employees shall be considered and treated as non-unit employees regardless of the plant area in which they perform their work.

**ARTICLE 2
NON-DISCRIMINATION**

Section 1. The Company shall not discriminate against any employee on the basis of union affiliation, age, physical, mental, or psychiatric disability, genetics, maternity leave, national origin or ancestry, race or color, religion, sex, veteran status or active military status, sexual orientation, genetic identity.

Section 2. Wherever there is a masculine reference with the Agreement, such reference likewise applies to employees who are feminine.

**ARTICLE 3
PURPOSE AND SCOPE**

Section 1. The parties recognize that the successful day-to-day operation and the attainment of efficiency rest with both parties. Both recognize that attitudes of managerial and bargaining unit people are important to the attainment of harmonious relations and the maintenance of the Company's competitive position in its various markets. Accordingly, both parties pledge their cooperation in forthrightly administering this Agreement.

Section 2. The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that all the understandings and agreements arrived at by the parties after the exercise of those rights and opportunities are set forth in this Agreement.

Exhibit 1

Section 3. The provisions of this Agreement constitute the entire agreement between the Company and the Union and all prior agreements, either oral or written, are hereby canceled. The specific terms of this Agreement may be changed only by mutual consent, reduced to writing and signed by authorized representatives of the parties.

**ARTICLE 4
NO STRIKE-LOCKOUT**

Section 1. The Union agrees that it will not cause or permit its members to cause or participate in any strike, slowdown, stoppage of work or interference with the operations of the Company's business during the term of this Agreement. In the event any member causes or participates in any of these prohibited acts, the Union agrees to immediately instruct those members involved to cease such unauthorized conduct.

Section 2. The Company has specifically reserved the right to discipline up to and including discharge, any employee who instigates, participates or gives leadership to any of these prohibited activities.

Section 3. During the term of this Agreement the Company will not lockout.

**ARTICLE 5
UNION MEMBERSHIP-CHECKOFF**

Section 1. The Union agrees that membership in the Union will be made available to all on an equal basis without discrimination.

Section 2. Upon receipt of a signed individual authorization from any employee covered under this Agreement, the Company shall withhold from such employee's earnings, payment of Union dues and initiation fees. Deductions shall be made from the first pay day of each month of said employee and promptly remitted to the Financial Secretary of the Union together with a list of the names of the employees to whom said monies are to be credited. Shall any employee have no earnings due him on the first pay day of any month; deductions shall be made from the next succeeding pay of the employee.

The Company, upon request by the Union, agrees to deduct union dues on a weekly basis, provided that an employee's individual deduction shall remain a constant amount during any given calendar year.

Section 3. The Union shall indemnify and save the Company harmless against all liability that may arise as a result of action taken by the Company for the purpose of complying with the checkoff provision of this Agreement, or for any loss by action or omission of the Union or its officers. The Union shall keep the Company informed of the regular monthly dues and initiation fees, the amount thereof and any changes therein.

Exhibit 1

Section 4. It is understood that this checkoff agreement is revocable by an employee up to the time that the first deduction for union dues or initiation fee is made from the employee's pay, and once during each twelve (12) month period following the date of the employee's checkoff authorization as follows:

(a) Not more than twenty (20) days and not less than ten (10) days prior to the expiration of each period of one (1) year of each Collective Bargaining Agreement between the Company and the Union, or one (1) year from the date of delivery of the checkoff authorization form to the Company, whichever occurs sooner.

(b) The checkoff authorization may be revoked by the filing of a written revocation with the Company and the Union within the time periods set out in sub-paragraph (a) above.

Section 5. The Employer agrees to honor political contribution deduction authorization forms voluntarily signed by an employee in the following manner:

(a) The political contribution of eighty cents (80c) per week shall be made on each weekly pay period during each month in which an employee has sufficient earnings for such deductions. The deductions thus made shall be remitted to the Financial Secretary of the Local Union by the twenty-fifth (25th) day of each month for deductions made the preceding month. The check for all such moneys deducted shall be made payable to "PAL Political Fund and/or AFL-CIO COPE".

(b) The standard Dues Deduction Form supplied by the Local Union may be used for reporting such deductions.

**ARTICLE 6
MANAGEMENT RIGHTS**

Section 1. It is agreed that the rights of the management of the Company have been bargained, and include specifically, but are not limited to the following:

- (a) The determination of location and number of plants;
- (b) The determination of products to be manufactured and services to be performed;
- (c) The standards of quality to be maintained and the workmanship required;
- (d) The scheduling of production;
- (e) The type and quantities of machines, tools and equipment to be used;
- (f) The methods, processes and means of machining, assembling, servicing and repairing products;
- (g) The control of all designs and engineering determinations;
- (h) The purchase, control, and use of raw materials;

Exhibit 1

- (l) The choice and purchase of semi-manufactured and finished parts to be used;
- (j) The right to place work with outside contractors;
- (k) The use of non-bargaining unit people for production and maintenance where their skill is necessary, in emergencies, for training, and unusual business situations, but not for regular continuing production activities for new or existing product lines which would displace or eliminate the need for regular bargaining unit positions;
- (l) To establish reasonable rules of plant conduct;
- (m) To introduce changes in methods, jobs or facilities;
- (n) To establish reasonable production standards, time-studied or otherwise;
- (o) To increase or decrease the business as warranted;
- (p) To generally manage the Company's business as deemed best.

Section 2. The Company shall also have exclusive right to direct its employees, including but not limited to, the right to hire, promote, demote, transfer, layoff, discharge or discipline for cause, and to maintain discipline among employees, subject only to the specific limitations of this Agreement.

Section 3. The Company shall have the right to establish, maintain, and enforce reasonable rules and regulations to assure orderly plant operations, so long as such rules and regulations do not specifically conflict with the provisions of the Agreement. Such rules and regulations shall be posted on the Company bulletin boards and copies furnished the Union, including all changes in such rules and regulations, provided however, that changes in any rules and regulations shall not become effective until three (3) work days after copies thereof have been furnished to the Union and posted on the bulletin board. If the Union considers a proposed Company rule or regulation to be unreasonable, inconsistent, or in conflict with any provision of this Agreement, it shall be subject to the Grievance and Arbitration Procedure.

ARTICLE 7 UNION REPRESENTATION

Section 1. The Union may appoint a Chief Steward, and two (2) Assistant Stewards on the day shift, and one (1) Assistant Steward on the second shift.

Section 2. Designated stewards will have full-time assignments within the plant which may be interrupted for brief periods to perform necessary grievance investigations (not solicit), within their jurisdictional area and meetings with Management per Article 8. No Grievance investigation and/or meeting with Management shall occur during the first hour of any shift. At no time will

Exhibit 1

authorized Union activity cause any interference with production operations. Shop stewards shall make arrangements with their supervisor prior to leaving their work station to investigate a grievance and/or meet with Management; will check in with the supervisor of any department where business is to be conducted, and will notify his or her supervisor upon return. The Company specifically reserves the right to control Company paid time by discontinuing such payment in event abuses of this privilege are deemed to exist.

Section 3. Shop stewards have no authority to take, encourage or permit strike action, or any other action interrupting the Company's business.

Section 4. Upon notification to the Company, an authorized Representative or Officer of the Union shall have access to the plant during business hours for the purpose of conducting legitimate Union business.

Section 5. The Company and all employees recognize the Union's Business Agent as having full authority to make determinations for the Union in respect to all grievances.

**ARTICLE 8
GRIEVANCE PROCEDURE**

Section 1. The word "grievance" as used in this Agreement means a complaint filed by a seniority employee alleging failure of the Company to comply with some specific provision of this Agreement not excluded from this grievance procedure. A grievance, to be recognized, must be brought to the attention of the Company within five (5) working days of the event giving rise to the dissatisfaction.

Section 2. If a grievance should arise between an employee and the Company, it shall be settled in the following manner:

STEP 1. The aggrieved employee or employees shall first attempt to adjust the matter with the supervisor, with or without the assistance of the shop steward, as the employee or employees may elect. The supervisor shall give his answer within two (2) working days.

STEP 2. Any grievance which cannot be satisfactorily settled in Step 1 shall be reduced to writing and submitted to the Department Manager or his designee within three (3) working days after receipt of the Company's answer in Step 1. The Department Manager or his designee shall render a decision within five (5) working days after submission of the grievance in Step 2.

STEP 3. In the event the Department Manager's decision in Step 2 is unsatisfactory to the Union, the grievance shall be submitted to the President within three (3) working days after receipt of the Department Manager's answer in Step 2. The President shall render a decision within three (3) working days after submission of the grievance.

Exhibit 1

Section 3. In the event the Company's decision at the conclusion of Step 3 is unsatisfactory to the Union, the grievance may be appealed to arbitration as provided in Article 9. Unless the decisions as rendered in Step 1, 2, or 3 are appealed within the established time limits, the Company's position shall be deemed to be acceptable and shall be final and binding.

Section 4. No grievance, the basis of which occurred prior to the date of the signing of this Agreement, shall be subject to adjustment by the grievance procedure set forth above.

Section 5. Grievances which are based upon events arising subsequent to the termination of this contract, which would otherwise be covered by this contract, are expressly excluded from this contract and the Company is not obligated to process such a grievance or to proceed to arbitration thereon.

**ARTICLE 9
ARBITRATION**

Section 1. If a grievance is not settled in the Steps provided in the Grievance Procedure, the Union may submit the dispute to arbitration within ten (10) days, providing prior notice in writing of five (5) days is given to the Company of intention to arbitrate.

Section 2. If they are not able to mutually settle upon a satisfactory arbitrator, the Union may request the Federal Mediation and Conciliation Service to submit a list of five (5) impartial arbitrators. The Company and the Union shall alternately strike one (1) name until four (4) names have been stricken, the remaining name shall be that of the arbitrator. Whether the Company or the Union makes the first deletion from said list of five (5) names will be determined by lots in the case of each arbitration.

Section 3. The arbitrator, in reaching his decision, shall have no authority to modify, amend, revise, add to or subtract from any of the terms and conditions of this Agreement.

Section 4. During the hearing, each party shall have full opportunity to present evidence and argument, both oral and documentary. The arbitrator will render his findings and award in writing within a reasonable period after the conclusion of the hearing. The decision of said arbitrator shall be final and binding on both parties.

Section 5. All of the time periods within which acts are to be performed by the parties hereto may be extended in writing by mutual agreement of the parties.

Section 6. The fees and expenses of the arbitrator, and other expenses deemed necessary by the arbitrator for the proper conduct of the proceedings shall be shared equally. Any expenses connected with the calling of any witnesses shall be borne by the party calling them. The party requesting the services of a Court Reporter shall pay for same unless the other party desires a copy, then it shall be split.

Exhibit 1

Section 7. Where the arbitrator rules and directs that an employee or employees be re-instated and paid for lost wages, any interim earnings received by such employees shall be deducted from the back pay. If such employees have received unemployment compensation from any State or Federal Agency, the full amount shall be deducted from the back pay.

**ARTICLE 10
SENIORITY**

Section 1. Each new employee shall be regarded as probationary until such employee has actually worked ninety (90) working days for the Company. Such employee shall not be subject to the terms of this Agreement, except as otherwise provided herein.

Section 2. "Seniority" is defined as the length of an employee's continuous service with the Company dating from the date of employment or re-employment. An employee's seniority shall terminate according to Section 6 of this Article.

Section 3. The Company shall furnish the Union with an up-to-date seniority list every three (3) months upon request.

Section 4. In all cases of promotion to regular full time positions within the bargaining unit, transfers (other than temporary transfers) to such positions, demotions, layoffs and recall of employees to work who have been laid off, the following factors will be considered:

(a) Skill and ability to do the work efficiently. (When skill and ability is deemed approximately equal by the Company in the case of respective employees in question, seniority shall govern).

(b) Seniority.

The Company shall conduct layoffs on a departmental basis in accordance with this section.

Section 5. In cases of jobs newly created or vacant which are regular full time positions (except Leadmen positions), the Company will post such openings on the bulletin board for a period of three (3) days. However the Company may temporarily fill a position pending the selection of an applicant. The successful bidder(s) shall be determined in accordance with article 10, section 4.

If, in the opinion of the Company, no employee who bids on the job is immediately qualified and able to perform the work required, the Company may, at its option, repost the job (or repost for a trainee) or hire or transfer from outside the bargaining unit. Once an employee bids on a job and fails to meet the qualifications for that job, he is not eligible to bid upon the same job again for a period of ninety (90) days. An employee may not have more than three (3) successful bids in any one (1) year period.

Section 6. An employee's seniority shall terminate for any of the following reasons:

(a) Resigns or retires;

Exhibit 1

(b) Is discharged for just cause;

(c) Notwithstanding the provisions of Article 13, absences due to sickness or accident beyond a period of six (6) months, if the employee has less than twelve (12) months of continuous service, or twelve (12) months, if the employees has twelve (12) or more months of continuous service, except in the case of an industrial accident suffered by an employee in the course of his employment which is compensable under the Texas Worker's Compensation Act, in which case, the time periods started herein shall be extended by three (3) months provided the employee continues to be totally disabled.

(d) Absence due to layoff beyond a period of six (6) months if the employee has less than twelve (12) months of continuous service or twelve (12) months if the employee has more than twelve (12) months of continuous service.

(e) Failure to report within two (2) working days following a layoff after having been notified by the Company to report to work, except if the employee notified the Company within such period that he is outside the state of Texas, he may be allowed the actual common carrier travel time to the plant from the point of his departure. During this waiting period, the Company may cover the job in any way it chooses. It will be conclusively presumed that a telegram or registered letter properly stamped and addressed to the employee at the last address furnished by him to the Company was received by the employee within three (3) days from the time of mailing;

(f) Unexcused absence for three (3) working days without an excuse acceptable to the Company or without notifying the Company during such period of such valid excuse. Such unexcused absence shall be considered a voluntary resignation by the employee;

(g) Permanent cessation of operations of the Company of the work carried on by the employee and/or the bargaining unit;

(h) Conviction of a felony. An admission to a lesser charge or a plea of nolo contendere to the original charge will be deemed to be a guilty finding of the original charge.

ARTICLE 11 HOURS AND OVERTIME

Section 1. The normal regularly scheduled work week will be Monday through Friday.

Section 2a. The normal work week will be forty (40) hours; time and one-half at the employee's regular rate of pay will be paid for all hours worked in excess of forty (40) in any one work week. When operating on a five (5) day, eight (8) hour schedule, time and one-half will be paid at the employee's regular rate of pay for hours worked in excess of eight (8) in any one work day. When operating on a four (4) day, ten (10) hour schedule, time and one-half will be paid at the employee's regular rate of pay for hours worked in excess of ten (10) in any one work day. When the four (4) day, ten (10) hour schedule is in effect, overtime hours on Friday and/or Saturday will be paid at time and one-half. However, all affected employees must work forty (40) hours in the pay period at their regular rate of pay when such hours are made available to them in order to

Exhibit 1

qualify for any overtime pay. The Company will let the Union know when any changes in work schedule are put into effect.

Excused bereavement, jury duty, military leave, vacation days, paid bonus days or Union business will be considered as time worked for the purpose of this section.

Section 2b. All hours worked on Sundays shall be paid at two (2) times the employee's regular rate of pay.

Section 2c. All hours worked on paid holidays shall be paid at two (2) times the employee's regular rate of pay. Such employee shall receive holiday pay in addition provided that such employee qualifies for holiday pay in accordance with Article 18.

Section 2d. The starting time on the day shift shall begin each day between 6 AM and 9 AM as determined by Management, or such other hours as mutually agreed between the Company and the Union, provided that five (5) days written notice has been received by either party. However, by mutual consent between the majority of the employees involved and the Company, an earlier starting and quitting time for the months of July and August may be established.

Section 3. The foregoing provisions of this Section describe the regular work day or work week and are not intended to be construed as a guarantee of hours of work per day or per week provided that no employee shall be given time off to make up for his overtime work in any week.

Section 4. Each employee shall receive two (2) rest periods of fifteen minutes each, one in the morning and one in the afternoon during the regular scheduled work day for which there will be no reduction in pay. In addition, the employees on the day shift will be entitled to a lunch period of thirty (30) minutes without pay. Any employees on the second shift will be entitled to an unpaid lunch period of thirty (30) minutes.

If an employee is required to work more than ten (10) consecutive hours, the Company shall give such employee a ten (10) minute paid supper break upon completion of the tenth (10th) hour of work. Except for such paid supper break, lunch periods shall be without pay and the timing of or changes in the rest periods and lunch periods will be determined by the Company. The Company may stagger lunch periods, rest periods, and the supper break to provide for continuous operation of equipment and/or processes.

Employees required to work more than twelve (12) hours in any one (1) work day shall receive an additional ten (10) minute rest period every two (2) hours.

Section 5. Overtime shall be assigned to the employee(s) who normally perform the job on which the overtime is scheduled. Each department employee will be assigned to work the overtime in the department that requires the overtime. If overtime is not required for the entire department, the employee who has been performing the job during the regular shift shall be offered the overtime. Assigned overtime, within the limitations of this section, not worked and other scheduled overtime which the employee agrees to work but does not work shall be charged to an employee's attendance record and shall be considered time missed within the scope of Article 23, Section 1. Employees

Exhibit 1

shall be given twenty-four (24) hour advance notice of weekend overtime. However, no employee shall be required to work on the first weekend of the month, or any weekend bounded by a Friday or Monday paid holiday.

Upon approval by the Company, such approval not to be unreasonably withheld, an employee who elects to take a paid bonus day on a Friday or a Monday, shall not be required to work overtime on the respective Saturday.

Overtime shall not be mandatory on the following: after ten (10) hours Monday through Thursday, after eight (8) hours on Friday, Saturday or any substitute payday, nor shall it be to work on Sundays or holidays listed in this Agreement.

Section 6. In the event that a second or third shift is established, each employee shall be paid a minimum of fifty cents(\$0.50) per hour premium rate for all work actually performed on said shifts.

ARTICLE 12 REPORT-IN AND CALL BACK

Section 1. Whenever an employee who has finished his regularly scheduled shift and left the Company premises is called back by the Company, to work, said employee shall receive two (2) hours call-back pay at his straight-time rate in addition to whatever pay is due him under the contract for hours worked.

Section 2. Any employee who is scheduled or required to and does report on any day and is not put to work for at least four (4) hours, shall receive a minimum of four (4) hours pay from the Company, except where failure to put such employee to work is caused by a failure of power, major breakdown of equipment, an Act of God, or a reason out of the direct control of the Company.

ARTICLE 13 LEAVES OF ABSENCE

Section 1. Upon proper application, a seniority employee who has no unused vacation, may be granted an unpaid leave of absence not exceeding ninety (90) days, and shall retain his seniority rating providing he does not work for another employer. If the Company grants a leave of absence to any employee, a written copy of the granting instrument shall be sent to the Union within one week of the date of such granting.

Section 2. Notwithstanding the provisions of Article 13, Section 3, any employee may be granted a sick or accident leave by the Company upon the basis of the facts and the presentation of a certification from a doctor designated by the Company or the presentation of a statement from the employee's personal doctor which, in the opinion of the Company, satisfactorily states adequate medical reasons necessitating the employee's absence from work.

Exhibit 1

Section 3. The Company will comply with the Family Medical Leave Act, as amended, for eligible employees.

Section 4. The Company and the Union agree to comply with the Federal Law relating to the rights of employees who enter the military service of the United States or serve as active reservists.

**ARTICLE 14
HEALTH AND SAFETY**

Section 1. The Company agrees to make reasonable provisions for the health and safety of its employees during the hours of their employment, including provisions for first aid, needed safety devices and special protective equipment.

The Union agrees to reasonable and/or appropriate efforts to help promote safety and accident prevention at the plant. Poor safety practices by an employee is just cause for discipline.

Section 2. An employee injured on-the-job will be paid for the balance of his shift at his regular straight time rate of pay, providing the physician attending the injury certifies to the disability for the balance of the shift.

Section 3. The Company agrees to furnish safety glasses and gloves considered necessary for the safety and health of employees.

**ARTICLE 15
BULLETIN BOARD**

Section 1. The Company shall provide a bulletin board in each building for the exclusive use of the union. All notices shall be provided to the Human Resources Manager for approval and promptly posted if approved.

**ARTICLE 16
BEREAVEMENT-FUNERAL**

Section 1. A seniority employee who is absent from work solely due to the death of the spouse, mother, father, brother, sister, mother-in-law, father-in-law, grandparents, children or stepchildren, grandchildren or great-grandchildren, he or she shall be entitled to three (3) consecutive working days off with pay, computed at the employee's regular straight time rate, provided that the employee attends the funeral.

Section 2. When death occurs outside the United States, or when the employee fails to attend the funeral, the employee shall be entitled to one (1) day off with pay for the purpose of attending memorial services. In the event of the death of a mother or father, the employee shall be entitled to three (3) days bereavement leave with pay.

Exhibit 1

Section 3. A seniority employee shall be granted a one (1) day excused absence with pay for the purpose of attending the funeral of a brother-in-law, sister-in-law, aunt or uncle. Such one (1) day paid bereavement leave shall be considered as time worked for the purpose of the Attendance Incentive Plan as set forth in Article 23.

The Company may request documentation of funeral attendance.

If the funeral falls on the day before or after a paid holiday, the employee will receive his holiday pay as though he or she had worked to qualify.

**ARTICLE 17
JURY PAY**

Section 1. After official notice, the Company shall grant non-probationary employees who are required to serve on local Jury Duty service the difference, if any, between the employee's regular straight time hourly earnings and the Jury fee paid to the employee, provided such employee works the remainder of the shift following the lunch period if reasonably practical.

**ARTICLE 18
HOLIDAYS**

Section 1. The following paid holidays shall be observed regardless of the day of the week on which they fall, providing all the conditions of this Article are met:

New Year's Day	Day After Thanksgiving Day
Memorial Day	Christmas Eve Day
July 4th	Christmas Day
Labor Day	New Year's Eve Day
Thanksgiving Day	

Section 2. The following conditions shall apply regarding holidays:

(a) An employee must have completed 30 days actually worked and comply with Section (b) and (c) of this section.

(b) No holiday pay will be paid any employee who does not work the full last scheduled work day before the holiday and the full first scheduled work day after the holiday, unless such absence is specifically excused by the Company. Saturday and Sunday shall not be considered as scheduled work days normally worked for the purpose of holiday pay. However, an employee who is less than one hour tardy on the scheduled work day immediately before or after the holiday shall not forfeit his holiday pay.

(c) When one of the above holidays falls within an eligible employee's vacation period, and he is absent from work during the scheduled work week because of such vacation; holiday pay will be given in addition to the vacation pay.

Exhibit 1

(d) Employees on an approved FMLA or Personal Leave of Absence are not eligible for holiday pay for any holiday that occurs during their absence from work.

Section 3. Holiday pay shall be computed on the basis of eight (8) hours regular straight time pay.

Section 4. When required to work on the holiday, an employee shall be paid at two (2) times his regular straight time hourly rate for all hours actually worked in addition to receiving holiday pay.

Section 5. Any holiday that falls on a Sunday may be observed on the following Monday. Any holiday that falls on a Saturday may be observed on the preceding Friday.

ARTICLE 19 VACATIONS

Section 1. Vacations with pay shall be granted in the following schedule:

<u>Length of Service</u>	<u>No. of Hours of Vacation</u>
1 Year, but less than 2 Years	40 hours
2 Years to 10 Years	80 hours
10 Years to 20 Years	120 hours
Over 20 Years	160 hours

Section 2. Employees shall be compensated for a vacation day at eight (8) times their regular hourly rate of pay if on a five (5) day, eight (8) hour schedule or ten (10) times their regular hourly rate of pay if on a four (4) day, ten (10) hour schedule, times the number of vacation days received.

Section 3. Vacations shall be non-cumulative, but if it is agreed by the Company and the employee, the Company may grant him vacation pay in lieu of time off, and the employee may work during his vacation time.

Section 4. Vacations will be scheduled only after completion of one (1) year of service and the employee will receive his earned vacation pay on the first regular pay day preceding his vacation period. He shall then take his vacation if his absence would not impair the production schedule. However, the Company and employee shall agree on a vacation period time for such employee as soon as possible. Subsequent vacations may be scheduled and earned only on completion of each successive full year of service.

Employees shall not be absent on vacation for more than two (2) consecutive weeks at a time without permission of the Company.

Section 5. The Company may schedule a general vacation shutdown for no more than one (1) week, retaining a partial work force sufficient to perform required work. Such work shall be offered to the most senior employee with the skill and ability to perform the required work. The Company shall give the employees notice of the shutdown period no later than April 1. Also, earned vacations in excess of the shutdown period may be taken at other times.

Exhibit 1

Section 6. Senior employees shall be given first preference to select vacation periods, however senior employees may not bump junior employees' scheduled vacation if said junior employees have had their vacation scheduled for a period of thirty (30) days or more. A vacation period may be scheduled or changed only with a minimum of five (5) working days notice and mutual agreement between the Company and the employee.

On occasion, personal circumstances may arise that prevent an employee from providing the minimum five (5) day advance notice for scheduling vacation or personal days. If such a situation arises, a less than five (5) day notice would be acceptable as determined by the Company. However, it is the intent of the Union and the Company to have a minimum of twenty-four (24) hour notice provided by the employee, except in the case of dire emergency.

Such agreement of a late schedule change by the Company would not establish a practice or precedent for future denials by the Company if the situation warrants. Any such denial will not be made without a legitimate business reason.

Section 7. The following schedule of hours actually worked during the vacation eligibility year for each employee shall determine such employee's paid vacation earned:

- (i) 1500 hours and above – full vacation;
- (ii) Less than 1500 hours – divide actual hours worked by 1500 to determine the percentage of paid vacation earned.

**ARTICLE 20
RETIREMENT PLAN**

Section 1. The Company and the Union have negotiated a 401(K) Retirement Plan which is incorporated by reference and made a part of this Agreement. An employee is eligible to participate on the first of the month following twelve (12) months of continuous service as defined by the plan. A copy of the summary plan description will be given to each covered employee upon request.

Section 2. The Company shall contribute \$.15 per hour worked into each eligible employee's personal 401(K) account, provided such employee was hired prior to August 1, 2000 (grandfathered employees).

Section 3. Effective August 1, 2000 the Company agrees to contribute additional money into each eligible employee's personal 401(k) account in accordance with the following formula:

The Company will provide a 25% matching contribution for each dollar of voluntary pre-tax contributions by an eligible employee, up to a limit of a contribution by the employee of 6% of his wages. The employee shall be permitted to contribute more than 6% of his wages, however no 25% match shall be made by the Company for such additional contributions by the employee. An employee who chooses to contribute less than 6% of his wages shall be eligible for the 25% match by the Company.

Exhibit 1**ARTICLE 21
INSURANCE**

Section 1. The current employee medical benefit plan and dental plan of Mestek, Inc. are incorporated by reference into this agreement. The Company shall, following thirty (30) days notice to the Union be permitted to substitute a local PPO or HMO medical plan and/or dental plan, and/or modify the plans as modifications occur in Mestek's corporate plans. The Company will continue to provide medical and dental coverage to eligible employees, as defined below. Future plan provisions and plan design may be affected by cost escalation. Plan benefits will begin on the first day of the month following completion of each employee's probation period, provided such employee elects to participate in the plan(s).

Section 2. The weekly contribution rate shall be adjusted on January 1 of each year in accordance with current working/Cobra rates. Any increase will not exceed \$3.00 per each contribution rate for the single plan, or \$4.00 for the family plan.

Section 3. Life and AD&D Insurance will be provided at the rate in accordance to the following schedule:

Year 1: \$22,000
Year 2: \$22,000
Year 3: \$22,000
Year 4: \$25,000
Year 5: \$25,000

The Company shall make reasonable efforts to make available a voluntary supplemental life insurance program that provides group rates for employees who wish to purchase additional life insurance coverage for themselves and/or their dependents.

Section 4. Effective the first day of the month following completion of each eligible employee's probation period, the Company shall provide a Sickness and Accident benefit of \$270.00 per week in Years 1 – 3, and \$300.00 per week in Years 4 and 5, though not to exceed fifty percent (50%) of such employee's regular wage rate multiplied by forty (40), and not to exceed thirteen (13) weeks in each calendar year.

This benefit will begin on the first day of absence in the case of a non-work related accident, and the eighth (8th) day of absence caused by an illness unless such employee is hospitalized, in which case this benefit will begin on the first day of confinement in a hospital.

**ARTICLE 22
WAGE RATES**

Section 1. For duration of this Agreement, the hourly rates of pay shall be those set out in **Exhibit "A"** attached hereto and made a part hereof for all purposes, provided that:

Exhibit 1

(a) The Company retains the right to set starting wages for new employees based upon the skill, ability, and experience of such new employees and based upon general employment market conditions; but said starting wages shall not exceed prevailing shop wages for current employees with the same job duties. It is understood that the Company may call upon an employee to perform, and such employee shall perform, his duties as regularly assigned, and such additional duties and responsibilities as may be assigned which do not require substantially greater skill and ability than those ordinarily performed in his regular job.

(b) If an employee is assigned to perform work of a higher rated job classification, he shall be paid the wage differential appropriate to such higher classification. For accounting purposes, such payments may be rounded up or down to the nearest full day, provided this rounding is done in good faith by the Company. If an employee is temporarily assigned to perform work of a lower rated job classification, such employee shall suffer no reduction in his wage.

(c) Management may award individual merit increases based on outstanding performance by an individual employee. The regular date for such possible merit increases shall be August 1, however nothing herein shall preclude the award of a merit increase at a different date under special or unusual circumstances.

(d) Any merit increase must be a minimum of \$.25 per hour. Any merit increase shall be based solely upon objective performance criteria. The Company agrees to use reasonable efforts to be as fair, impartial, and equitable as possible in the evaluation of each employee based upon the above agreed criteria.

**ARTICLE 23
ATTENDANCE INCENTIVE PLAN**

Section 1. Employees may earn additional days off by meeting attendance/tardiness requirements during the term of this Agreement.

In each three (3) month period an employee shall be credited with one eight (8) hour day off providing:

- (1) He has missed no more than twelve (12) hours of work consisting of absence, tardiness, and/or leaving early, and,
- (2) No more than four (4) occurrences of any type within the three (3) month period.

An employee shall not be charged with missing more than eight (8) hours of time in any scheduled work day.

Thus, an employee may be credited with up to four (4) days off in a one year period: Plus one (1) additional day, if applicable, in accordance with Section 2 of this article.

Should the employee choose not to take the credited days as time off, the Company will buy out the credited days at the rate of ten (10) straight time hours per day.

Exhibit 1

If an employee exceeds the above twelve (12) hour limit, or the four (4) occurrence limit, the first working day of the following month will begin a new eligibility period.

Earned bonus days under this section may be taken immediately when earned, provided they are properly scheduled with a minimum of five (5) days notice, or may be banked for future use. An employee may accumulate up to five (5) such days. Bonus days earned in excess of five (5) such accumulated days shall promptly be paid to the employee at the rate of ten (10) straight time hours for each bonus day earned.

Section 2. Any employee who successfully earns four (4) consecutive "Bonus Days" under the provisions of Section 1 above shall be awarded one additional day off with pay, i.e., a "fifth day". No employee shall earn more than five (5) paid days off in any twelve month period under this Article (i.e., once an employee successfully earns his "fifth day", such employee shall be required to earn an additional four (4) consecutive "Bonus Days" prior to becoming eligible for an additional "fifth day".

Each eligible employee shall have the option of cashing in the earned "fifth day" for ten (10) hours of straight time pay, banking such day for future use, or scheduling such day all in accordance with the language in Section 1 above.

Days off or payments in lieu of days off must be taken within twelve (12) months of the time they were earned. Excused bereavement, jury duty, military leave or union business will not be charged against employee absence.

**ARTICLE 24
PLANT CLOSING**

While the Company has no intention of closing the Dallas facility during the term of this Agreement, if the Company ever did so – in the future – there will be an "effects bargaining" process which would include "severance pay" based on the following principles: efficiency of production; quality of production; safety; and years of service. Whatever payments were bargained collectively at that time would be paid to all employees who were to stay with the Company, as needed, until the closing of the facility.

Exhibit 1**ARTICLE 25
VALIDATION-DURATION**

Section 1. In the event this Agreement or any part thereof be rendered or declared invalid by reason of any existing or subsequently enacted legislation or by decree of a court of competent jurisdiction, all other portions of the Agreement shall remain in full force and effect.

THIS AGREEMENT, shall be and remain in full force and effect from August 1, 2016 to Midnight on July 31, 2021 and from year to year thereafter unless sixty (60) calendar days notice shall be given in writing by certified mail by either party to the other prior to the expiration of this Agreement, or any annual renewal date thereafter of its desire to amend, modify, or terminate this Agreement. Such notice by either party shall cause this entire Agreement to terminate on the respective expiration or anniversary date.

SIGNATURES:**FOR THE UNION**

CALVIN YOUNG**FOR THE COMPANY**

G. MICHAEL KALER

BEN MCCARTY

JOANNE BERWALD

RAUL GONZALEZ

Exhibit 1

EXHIBIT A
WAGE RATE DIFFERENTIAL SCHEDULE

<u>JOB GRADE</u>	<u>PREMIUM ABOVE BASE RATE</u>
4	\$0.00 (Base Rate)
5	\$0.40 per hour above Job Grade 4
6	\$0.40 per hour above Job Grade 5
7	\$0.50 per hour above Job Grade 6
8	\$0.50 per hour above Job Grade 7

Note 1: The Company retains the right to adjust starting rates upward or downward, depending on general employment market conditions; however, the above premiums shall apply to employees bidding into a higher or lower job grade. For example, each employee who successfully bids into Job Grade 6 from Job Grade 5 shall receive an increase of \$0.40 per hour. Each employee who successfully bids down from Job Grade 6 to Job Grade 5 shall have a reduction of \$0.40 per hour. The above premium differentials shall remain constant regardless of the starting rates.

Note 2: If the Company adjusts the starting rates downward, no employee, including probationary employees, shall suffer a reduction of his wage rate; and no employee shall be deprived of any future wage increases as required by this Agreement.

Note 3: Each probationary employee who successfully completes his probationary period shall receive a wage increase of \$0.25 per hour effective immediately upon completion of probation.

Note 4: If the Company adjusts starting rates upward, each employee with at least one year seniority at the time of said upward adjustment shall be paid a minimum of \$0.30 per hour above the new starting rate of his job grade.

WAGE ADJUSTMENTS

Effective August 1, 2016, and each August 1 thereafter during the life of this agreement, each individual employee on the seniority list, including probationary employees, shall be eligible to receive the following wage rate increase:

August 1, 2016	\$0.20 per hour
August 1, 2017	\$0.35 per hour
August 1, 2018	\$0.35 per hour
August 1, 2019	\$0.40 per hour
August 1, 2020	\$0.40 per hour

Exhibit 1

JOB GRADES AND JOB TITLES
Effective August 1, 2000

GRADE 4

Assembler I (Assy I)	Fab Helper (Fab Helper)
Brazer I (Brazer I)	Material Handler I (Mat'l Hndlr I)
Crater (Crater)	Laborer (Laborer)
Janitor (Janitor)	

GRADE 5

Assembler II (Assy II)	Machine Operator I (Mach Oper I)
Assembler Welder I (Assy Weld I)	Maintenance Mechanic I (Maint Mech I)
Brazer II (Brazer II)	Material Handler II (Mat'l Hndlr II)
Coil Assembler I (Coil Assy I)	Painter (Painter)
Forklift Driver (Forklift)	Shipping Clerk I (Ship Clerk I)
Electrical Assembler I (Elect Assy I)	Welder I (Weld I)
Electrician I (Elect I)	

GRADE 6

Assembler III (Assy III)	Iron Worker (Iron Worker)
Assembler Welder II (Assy Weld II)	Machine Operator II (Mach Oper II)
Brazer III (Brazer III)	Maintenance Mech II (Maint Mech II)
Boiler Operator (Boil Oper)	Material Handler III (Mat'l Hndlr III)
Coil Assembler II (Coil Assy II)	Piper I (Pipe I)
Coil Tester (Coil Tester)	Shipping Clerk II (Ship Clerk II)
Electrical Assembler II (Elect Assy II)	Welder II (Weld II)
Electrician II (Elect II)	

GRADE 7

Assembler IV (Assy IV)	Piper II (Pipe II)
Electrician III (Elect III)	Tester I (Tester I)
Machine Operator III (Mach Oper III)	Welder III (Weld III)
Material Handler IV (Mat'l Hndlr IV)	Maintenance Mech. III (Maint Mech III)

GRADE 8

Certified Welder (Cert Weld)	Machinist (Machinist)
Leadman (Leadman)	Senior Tester (Sr Test)
Senior Mechanic (Sr Mech)	Senior Piper (Sr Pipe)

Exhibit 1**Memorandum of Understanding**

During the negotiations for a successor Collective Bargaining Agreement between Mestek, Inc. and Local #68, SMIA, it was agreed that:

1. The Company and the Union agree that a Union representative will have a 30 minute time period, immediately following the Company's initial orientation (which is typically done at 6:00 a.m. on the employee's first day of employment), to share a DVD and provide additional orientation as laid out on an agreed-upon outline.
2. The Company shall first have the right to view the DVD and agree on the Union's orientation outline.

Signatures:**For the Union:**

CALVIN YOUNG**For the Company:**

BEN McCARTY

Exhibit 2

FedEx® Tracking

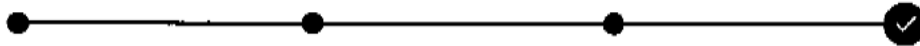


776969894989



ADD NICKNAME

Delivered
Tuesday, 05/31/2022 at 2:20 pm



DELIVERED

Signed for by: (b) (6), (b) (7)(C)

GET STATUS UPDATES

OBTAIN PROOF OF DELIVERY

FROM

Springfield, MA US

TO

EULESS, TX US

MANAGE DELIVERY

Travel History

TIME ZONE

Local Scan Time

Tuesday, May 31,
2022

2:20 PM	EULESS, TX	Delivered
2:15 PM	IRVING, TX	Delay Package delayed
2:00 PM	IRVING, TX	On FedEx vehicle for delivery
2:00 PM	IRVING, TX	At local FedEx facility
7:01 AM	IRVING, TX	Delay Package delayed
6:42 AM	IRVING, TX	At local FedEx facility

Exhibit 2

11:54 AM	IRVING, TX	At local FedEx facility
Friday, May 27, 2022		
2:13 PM	IRVING, TX	At local FedEx facility
9:26 AM	IRVING, TX	Delay Customer not available or business closed.
8:37 AM	IRVING, TX	Shipment arriving On-Time
8:03 AM	IRVING, TX	At local FedEx facility
8:03 AM	IRVING, TX	On FedEx vehicle for delivery
7:10 AM	IRVING, TX	Delay Customer not available or business closed.
6:23 AM	IRVING, TX	At local FedEx facility
6:23 AM	IRVING, TX	On FedEx vehicle for delivery
5:37 AM	IRVING, TX	At local FedEx facility
5:09 AM	DALLAS, TX	At destination sort facility
4:29 AM	INDIANAPOLIS, IN	Departed FedEx hub
Thursday, May 26, 2022		
8:55 PM	WINDSOR LOCKS, CT	Left FedEx origin facility
7:24 PM	WINDSOR LOCKS, CT	Shipment arriving On-Time
7:08 PM	WINDSOR LOCKS, CT	Picked up
12:51 PM		Shipment information sent to FedEx

Expand History 

Shipment Facts

TRACKING NUMBER

776969894989

SERVICE

FedEx First Overnight

DOOR TAG NUMBER

DT105995423273, DT106199440482

WEIGHT

0.5 lbs / 0.23 kgs

DELIVERED TO

Receptionist/Front Desk

TOTAL PIECES

1

TOTAL SHIPMENT WEIGHT

0.5 lbs / 0.23 kgs

TERMS

Shipper

SHIPPER REFERENCE

MI-0

PACKAGING

FedEx Envelope

SPECIAL HANDLING SECTION

Deliver Weekday

SHIP DATE

5/26/22 ?

Exhibit 2**OUR COMPANY**

About FedEx(<https://www.fedex.com/en-us/about.html>)

Our Portfolio(<https://www.fedex.com/en-us/about/company-structure.html>)

Investor Relations(<https://investors.fedex.com/investor-home/default.aspx>)

Careers(<https://careers.fedex.com/fedex/>)

FedEx Blog(<https://www.fedex.com/en-us/blog.html>)

Corporate Responsibility(<https://www.fedex.com/en-us/about/corporate-social-responsibility.html>)

Newsroom(<https://newsroom.fedex.com/>)

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ShopRunner(<https://www.fedex.com/en-us/shoprunner.html>)

LANGUAGE


Change Country/Territory(<https://www.fedex.com/?location=home>)

FOLLOW FEDEX  (<https://www.fedex.com/en-us/email.html>)  (<https://www.facebook.com/FedEx/>)


 (<https://twitter.com/fedex>)  (<https://www.instagram.com/fedex/>)  (<https://www.linkedin.com/company/fedex>)

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036/038

Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the actual declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see current FedEx Service Guide.

Exhibit 2



260 North Elm Street

Westfield, MA 01085

(413) 564-5738

<http://www.mestek.com>

May 26, 2022

VIA FEDERAL EXPRESS &

E-MAIL (b) (6), (b) (7)(C) @smart-swgerc.org

(b) (6), (b) (7)(C)

Sheet Metal Workers International
Association, AFL-CIO
Local #68
1020 S Industrial Blvd
Euless, TX 76040

Re: Termination of CBA and Anticipatory Withdrawal of Recognition

Dear (b) (6), (b) (7)(C)

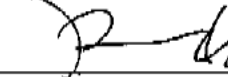
The parties 'Collective Bargaining Agreement (hereinafter "CBA") had an initial term that expired on July 31, 2021. The CBA automatically renewed for a one-year term that ends on July 31, 2022. The purpose of this letter is to terminate the CBA pursuant to Article 35. In accordance with Article 35, this means this CBA will be terminated as of August 1, 2022. Please also note that given the Union inactivity and the lack of negotiation, we will also be filing a RM petition with the NLRB to determine whether the Union has continued majority support and whether a decertification election should occur. In the interim, please let us know whether the Union wishes to voluntarily disclaim interest in continued representation of the bargaining unit.

Thank you for your prompt attention this matter. Do not hesitate to reach out with any questions that you may have.

Very truly yours,

MESTEK, INC.

(b) (6), (b) (7)(C)

FORM NLRB-5081 (3-11)		NATIONAL LABOR RELATIONS BOARD	
QUESTIONNAIRE ON COMMERCE INFORMATION			
Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.			
CASE NAME Mestek, Inc. and Sheet Metal Workers Int'l Assoc., Local #68		CASE NUMBER	
1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity) Mestek, Inc.			
2. TYPE OF ENTITY <input checked="" type="checkbox"/> CORPORATION <input type="checkbox"/> LLC <input type="checkbox"/> LLP <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> SOLE PROPRIETORSHIP <input type="checkbox"/> OTHER (Specify)			
3. IF A CORPORATION OR LLC A. STATE OF INCORPORATION OR FORMATION B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES Pennsylvania 260 North Elm Street, Westfield, MA 01085			
4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS			
5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR			
6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed) HVAC equipment and building envelope industries			
7A. PRINCIPAL LOCATION		7B. BRANCH LOCATIONS 4830 Transport Dr, Dallas, TX 75247	
8. NUMBER OF PEOPLE PRESENTLY EMPLOYED A. TOTAL B. AT THE ADDRESS INVOLVED IN THIS MATTER 100s 100s			
9. DURING THE MOST RECENT (Check the appropriate box): <input type="checkbox"/> CALENDAR <input checked="" type="checkbox"/> 12 MONTHS or <input type="checkbox"/> FISCAL YEAR FY DATES			
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.		YES	NO
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.			
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount.			
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount.			
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.			
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.			
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount.			
H. Gross Revenues from all sales or performance of services (Check the largest amount): <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.			
I. Did you begin operations within the last 12 months? If yes, specify date			X
10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYEE GROUP THAT ENGAGES IN COLLECTIVE BARGAINING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If yes, name and address of association or group)			
11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS			
NAME (b) (6), (b) (7)(C)	TITLE (b) (6), (b) (7)(C)	E-MAIL ADDRESS (b) (6), (b) (7)(C)@mestek.com	TEL. NUMBER (b) (6), (b) (7)(C)
12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE			
NAME AND TITLE Brendan L. Hughes, Esq.	SIGNATURE 	E-MAIL ADDRESS Brendan.Hughes@sullivanandhayes.com	DATE 7/13/22
<p style="text-align: center; font-weight: bold; font-size: small;">PRIVACY ACT STATEMENT</p> <p style="font-size: x-small;">Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.</p>			

From: [Brendan Hughes](#)
To: [Sykes, Paul](#)
Subject: RE: Mestek (16-RM-299446)
Date: Tuesday, July 26, 2022 9:41:17 AM
Attachments: [image002.jpg](#)
[image003.png](#)
[image004.gif](#)

CAUTION: The sender of this message is external to the NLRB network. Please use care when clicking on links and responding with sensitive information. Forward suspicious emails to nrbirc@nlrb.gov.

www.sullivanandhayes.com



Hi Paul: I was actually just about to email you. My client will withdraw its petition and refile on August 1, 2022 after the CBA expires. Thank you for your assistance in this matter.

Regards, Brendan

/s/ Brendan L. Hughes

Brendan L. Hughes, Esq.
Brendan.Hughes@sullivanandhayes.com

SHQ File:

www.sullivanandhayes.com



IRS CIRCULAR 230 NOTICE: To the extent that this message or any attachment concerns tax matters, it is not intended to be used and cannot be used by a taxpayer for the purpose of avoiding penalties that may be imposed by law. **CONFIDENTIALITY NOTICE:** The information contained in this email message is intended only for the personal and confidential use of the designated recipients named above. This message may be an attorney-client communication or may be subject to a common interest privilege/protection, and as such, is privileged and confidential. If the reader of this message is not the intended recipient or any agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you are not the intended recipient of this email, please notify the sender of the error by telephone at (413) 736-4538 and delete the message immediately.

From: Sykes, Paul <Paul.Sykes@nrlb.gov>
Sent: Tuesday, July 26, 2022 9:40 AM
To: Brendan Hughes <Brendan.Hughes@sullivanandhayes.com>
Subject: RE: Mestek (16-RM-299446)

Brendan,

I was following up with you to see if your client has decided whether it would want to withdraw the petition.

If not, I will submit a recommendation to dismiss the petition because of the contract bar. The Employer can re-file the RM petition again once the contract expires.

Thanks,

Paul

From: Sykes, Paul
Sent: Thursday, July 21, 2022 9:19 AM
To: brendan.hughes@sullivanandhayes.com
Subject: Mestek (16-RM-299446)

Brendan,

Thank you for calling me back to discuss the above RM petition.

Based on my research, the Board has found that Employer petitions (RM petitions) are not subject to the three year limit of a contract bar. *Montgomery Ward & Co.* 137 NLRB 346 (1962)(employer party to a five year contract cannot file an RM petition after three years). My understanding of the evidence you provided is that the parties allowed the contract to automatically renew for another year and the contract expires on July 31, 2022. The Board has held that an automatically renewed contract will serve as a bar. *ALJUD Licensed Home Care Services*, 345 NLRB 1089 (2005)(The parties sometimes forestall automatic renewal by notice as provided in the contract. If they do not, the contract renews itself and constitutes a bar unless a timely petition is filed before the beginning of the insulated period).

My research did not clearly indicate whether or not an RM petition, like RC and RD petitions, could be filed in the open period (Note more than 90 days but over 60 days before contract expires). Regardless, the petition was not filed in this open period.

Please let me know if the Employer intends on withdrawing this petition and filing it after the contract expires.

Thanks,

Paul Sykes (he/him)
Board Agent, NLRB
Region 16-Fort Worth, TX
682-703-7788 (Direct)
202-417-5783 (Cell)
817-978-2928 (Fax)

untitled



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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 16
819 Taylor St Rm 8A24
Fort Worth, TX 76102-6107

Agency Website: www.nlrb.gov
Telephone: (817)978-2921
Fax: (817)978-2928

July 26, 2022

(b) (6), (b) (7)(C)

SHEET METAL WORKERS INTERNATIONAL
ASSOCIATION, LOCAL UNION 68, AFL-CIO
1020 S INDUSTRIAL BLVD
EULESS, TX 76040-5841
(b) (6), (b) (7)(C)@smart-swgcr.org

BRENDAN L. HUGHES, ESQ.
SULLIVAN, HAYES & QUINN
ONE MONARCH PLACE, SUITE 1200
SPRINGFIELD, MA 01144-1200
brendan.hughes@sullivanandhayes.com

Re: MESTEK, INC.
Case 16-RM-299446

DEAR PARTIES:

This is to advise you that on July 26, 2022, we approved without prejudice, withdrawal of the petition in the above case and contemplate no further action in this case.

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy L. Watson", is written over a horizontal line.

TIMOTHY L. WATSON
REGIONAL DIRECTOR

cc: MESTEK, INC.
4830 TRANSPORT DR
DALLAS, TX 75247

Case Name: MESTEK, INC.
Case No.: 16-RM-299446
Agent: Field Examiner PAUL SYKES

CASEHANDLING LOG

[illegible]

From: e-service@nlrb.gov
To: [DG-EFileChgPet-FTW16](#)
Subject: FW: Online Charge/Petition Inquiry # 1-3188061271 - RM
Date: Monday, August 8, 2022 1:17:21 PM

CAUTION: The sender of this message is external to the NLRB network. Please use care when clicking on links and responding with sensitive information. Forward suspicious emails to nlrbirc@nlrb.gov.

This is to notify you that a new PET, SOI, SVC Document(s) has been received by your office 16 for Inquiry # **1-3188061271**, Case Type : RM.

You can access the document(s) filed by clicking on the link(s) in the Attachments section.

Date Submitted:	Monday, August 8, 2022 1:15 PM Central Standard Time
Dispute/Unit Location:	Dallas, TX
Regional, Sub-Regional Or Resident Office:	16
Employer:	Mestek, Inc.
Case Type:	RM
Inquiry Number:	1-3188061271
Filing Party:	Petition
Name:	Hughes, Brendan L L.
Email:	brendan.hughes@sullivanandhayes.com
Address:	One Monarch Place Suite 1200 SPRINGFIELD, MA 01144
Telephone:	(413) 736-4538
Fax:	
Attachments:	PET : PET.1-3188061271.MI-50 2022-08-08 ReFILED w- NLRB - RM Petition.pdf SOI : SOI.1-3188061271.MI-50 2022-08-08 ReFILED w- NLRB - Supp Documents w- Quest of Comm.pdf SVC : SVC.1-3188061271.MI-50 2022-08-08 Certificate of Service.pdf

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
RM PETITION

DO NOT WRITE IN THIS SPACE

Case No.

Date Filed

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlrb.gov, submit an original of this Petition to an NLRB Office in the Region in which the employer concerned is located. The petition must be accompanied by a certificate of service showing service on all parties named in the petition of the following: (1) the petition; (2) Statement of Position form; and (3) Description of Procedures in Certification and Decertification Cases (Form NLRB 4812). The petition must also be accompanied by evidence supporting the statement that a labor organization has made a demand for recognition on the employer or that the employer has good faith uncertainty about majority support for an existing representative. However, if the evidence reveals the names and/or number of employees who no longer wish to be represented, the evidence shall not be served on any party.

1. PURPOSE OF THIS PETITION RM-CERTIFICATION OF REPRESENTATIVE - One or more individuals or labor organizations have presented a claim to the Employer/Petitioner to be recognized as the representative of employees of the Employer/Petitioner or the Employer/Petitioner has a good faith uncertainty about majority support for an existing representative. If a charge under Section 8(b)(7) of the Act has been filed involving the Employer/Petitioner named in this petition, this statement shall not be deemed made. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer/Petitioner:
Mestek, Inc.

2b. Address(es) of Establishment(s) involved (Street and number, City, State, ZIP code):
4830 Transport Dr, Dallas, TX 75247

3a. Employer/Petitioner Representative - Name and Title
Brendan L. Hughes, Esq.

3b. Address (if same as 2b - list (c) same)
One Monarch Place-Suite 1200, Springfield, MA 01144-1200

3c. Tel. No.
(413) 736-4538

3d. Cell No.

3e. Fax No.
(413) 731-8206

3f. E-Mail Address

Brendan.Hughes@sullivanandhayes.com

4a. Type of Establishment (Factory, mine, wholesaler, etc.)
Factory

4b. Principal Product or Service
HVAC and Metal Forming

5a. Description of Unit Involved:
Included:

All hourly paid production and maintenance employees at its 4830 Transport Drive.
Exclude:

5b. City and State where unit is located
Dallas, TX

5c. Number of Employees in Unit
See attached list

Unless a charge alleging a violation of Section 8(b)(7) is pending, check EITHER item 7a or 7b, whichever is applicable.
☐ 7a. A labor organization made a demand for recognition on the Employer/Petitioner on (Date) _____
☒ 7b. The Employer/Petitioner has a good faith uncertainty about majority support for an existing representative.

8a. Name of Recognized or Certified Bargaining Agent - Name
Sheet Metal Workers International Association AFL-CIO - Local #68

8b. Affiliation, if any:

8c. Address
1020 S Industrial Blvd
Euless, TX 76040

8d. Tel. No.

8e. Cell No.

8f. Fax No.

(b) (6), (b) (7)(C) smart-swgcrc.org

9. Date of Recognition or Certification

Unknown-Only have records dated back to 2009

10. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year) 7/31/21

11. Is there now a strike or picketing at the Employer's establishment(s) involved? ☐ No ☒ Yes If so, approximately how many employees are participating? _____ has picketed the Employer since (Month, Day, Year) _____
(Name of Labor Organization)

12. Organizations or individuals other than those named in Item 8, which have a contract with the Employer/Petitioner or represent employees of the Employer/Petitioner or demanded recognition as representatives and other organization and individuals known to have a representative interest in any employees in the unit described in Item 5 above. (If none, so state)
None

12a. Name and affiliation if any
N/A

12b. Address

12c. Tel. No.

12d. Cell No.

12e. Fax No.

12f. E-Mail Address

13. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election
See Position Statement attached Affidavit

13a. Election Type
☐ Manual ☒ Mail ☐ Mixed Manual/Mail

13b. Election Date(s):
As soon as possible

13c. Election Time(s):
As soon as possible

13d. Election Location(s):
N/A

14. Representative of the Employer/Petitioner who will accept service of all papers for purposes of the representation proceeding.
14a. Name and Title:
Brendan L. Hughes, Esq.

14b. Address (street and number, city, State and ZIP code):
Sullivan, Hayes & Quinn, LLC, One Monarch Place, Suite 1200, Springfield, MA 01144-1200

14c. Tel. No.
(413) 736-4538

14d. Cell No.

14e. Fax No.
(413) 731-8206

14f. E-Mail Address

Brendan.Hughes@sullivanandhayes.com

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.
Name (printed) (b) (6), (b) (7)(C) Signature (b) (6), (b) (7)(C) Date 8/2/2020

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (29 U.S.C., TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to involve its processes.

CERTIFICATE OF SERVICE

Employer Name: Mestek, Inc.

Service on the Employer

I hereby certify that on _____ (date), a copy of the petition involving the Employer named above, a Statement of Position (Form NLRB-505), and a Description of Procedures (Form NLRB-4812) were served on the Employer by: (check whichever is applicable)

- ☐ e-mail to the email address shown on the petition.
- ☐ facsimile (with the permission of the Employer) to the facsimile number shown on the petition.
- ☐ overnight mail to the mailing address shown on the petition.
- ☐ hand-delivery to _____ (name of Employer's representative) at the following address: _____.

Service on the Other Party Named in the Petition

I hereby certify that on 8/8/22 (date), a copy of the petition involving the Employer named above, a Statement of Position (Form NLRB-505), and a Description of Procedures (Form NLRB-4812) were also served on Sheet Metal Workers Int'l Assoc., AFL-CIO Local #68 (name of party or parties) by: (check whichever is applicable)

- ☒ email to the email address shown on the petition.
- ☐ facsimile (with the permission of the party) to the facsimile number shown on the petition.
- ☒ overnight mail to the mailing address shown on the petition.
- ☐ hand-delivery to _____ (name of party's representative) at the following address: _____.

Service on the Other Party Named in the Petition

I hereby certify that on _____ (date), a copy of the petition involving the Employer named above, a Statement of Position (Form NLRB-505), and a Description of Procedures (Form NLRB-4812) were also served on _____ (name of party or parties) by: (check whichever is applicable)

- ☐ email to the email address shown on the petition.
- ☐ facsimile (with the permission of the party) to the facsimile number shown on the petition.
- ☐ overnight mail to the mailing address shown on the petition.
- ☐ hand-delivery to _____ (name of party's representative) at the following address: _____.



Signature

Brendan L. Hughes, Esq.

Name and Title

August 8, 2022

Date

(b) (6), (b) (7)(C)

Work Location	Title	Job Grade	Shift
Dallas TX	ASSEMBLER ELECTRIC II	Grade 6	1st
Dallas TX	ASSEMBLER ELECTRIC II	Grade 6	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER I	Grade 4	1st
Dallas TX	ASSEMBLER II	Grade 5	1st
Dallas TX	ASSEMBLER II	Grade 5	1st
Dallas TX	ASSEMBLER III	Grade 6	1st
Dallas TX	ASSEMBLER IV	Grade 7	1st
Dallas TX	ASSEMBLER IV	Grade 7	1st
Dallas TX	ASSEMBLER WELDER I	Grade 5	1st
Dallas TX	ASSEMBLER WELDER I	Grade 5	1st
Dallas TX	ASSEMBLER WELDER II	Grade 6	1st
Dallas TX	BOX TRUCK DRIVER		1st
Dallas TX	BRAZER II	Grade 5	1st
Dallas TX	BRAZER III	Grade 5	1st
Dallas TX	COIL ASSEMBLER I	Grade 5	1st
Dallas TX	COIL ASSEMBLER II	Grade 6	1st
Dallas TX	ELECTRICAL ASSEMBLER III	Grade 7	1st
Dallas TX	ELECTRICAL ASSEMBLER III	Grade 7	1st
Dallas TX	ELECTRICAL ASSEMBLER III	Grade 7	1st
Dallas TX	ELECTRICAL ASSEMBLER III	Grade 7	1st
Dallas TX	FAB HLP	Grade 4	1st
Dallas TX	FAB HLP	Grade 4	1st
Dallas TX	FAB LEAD	Grade 8	1st
Dallas TX	LASER OPERATOR		1st
Dallas TX	LASER OPERATOR		1st
Dallas TX	LEADMAN	Grade 8	1st
Dallas TX	LEADMAN	Grade 8	1st

(b) (6), (b) (7)(C)

Dallas TX	LEADMAN	Grade 8	1st
Dallas TX	LEADMAN	Grade 8	1st
Dallas TX	LEADMAN	Grade 8	1st
Dallas TX	LEADMAN	Grade 8	1st
Dallas TX	LEADMAN	Grade 8	1st
Dallas TX	LEADMAN	Grade 8	1st
Dallas TX	LEADMAN	Grade 8	1st
Dallas TX	LEADMAN	Grade 8	1st
Dallas TX	LEADMAN	Grade 8	1st
Dallas TX	LEADMAN	Grade 8	1st
Dallas TX	MACH OP I	Grade 5	1st
Dallas TX	MACH OP II	Grade 6	1st
Dallas TX	MACH OP II	Grade 6	1st
Dallas TX	MACH OP III	Grade 7	1st
Dallas TX	MACHINE OPERATOR I	Grade 5	1st
Dallas TX	MACHINE OPERATOR I	Grade 5	1st
Dallas TX	MACHINE OPERATOR I	Grade 5	1st
Dallas TX	MACHINE OPERATOR I	Grade 5	1st
Dallas TX	MACHINE OPERATOR I	Grade 5	1st
Dallas TX	MACHINE OPERATOR I	Grade 5	1st
Dallas TX	MACHINE OPERATOR I	Grade 5	1st
Dallas TX	MACHINE OPERATOR I	Grade 5	1st
Dallas TX	MAINTENANCE MECHANIC I	Grade 7	1st
Dallas TX	MAINTENANCE TECH		1st
Dallas TX	MATERIAL HANDLER I	Grade 4	1st
Dallas TX	MATERIAL HANDLER I	Grade 4	1st
Dallas TX	MATERIAL HANDLER I	Grade 4	1st
Dallas TX	MATERIAL HANDLER I	Grade 4	1st
Dallas TX	MATERIAL HANDLER III	Grade 6	1st
Dallas TX	MTL HND IV	Grade 7	1st
Dallas TX	MTL HND IV	Grade 7	1st
Dallas TX	MTL HND IV	Grade 7	1st
Dallas TX	PIPER II	Grade 7	1st
Dallas TX	PIPING	Grade 6	1st
Dallas TX	PIPING	Grade 6	1st
Dallas TX	PRESS BRAKE		1st
Dallas TX	RECIEVING/INSPECTION		1st
Dallas TX	SHIPPING CLERK I	Grade 5	1st
Dallas TX	SR MAINTENANCE MECHANIC	Grade 8	1st
Dallas TX	TESTER SENIOR	Grade 8	1st
Dallas TX	TESTER SENIOR	Grade 8	1st
Dallas TX	TESTER SENIOR	Grade 8	1st
Dallas TX	TESTER SENIOR	Grade 8	1st
Dallas TX	TOOL CRIB ATTENDANT		1st
Dallas TX	WELDER I	Grade 5	1st
Dallas TX	WELDER I	Grade 5	1st
Dallas TX	WELDER I	Grade 5	1st
Dallas TX	WELDER I	Grade 5	1st
Dallas TX	WELDER I	Grade 5	1st

(b) (6), (b) (7)(C)

Dallas TX	WELDER II	Grade 6	1st
Dallas TX	WELDER II	Grade 6	1st
Dallas TX	WELDER III	Grade 7	1st
Dallas TX	WELDER III	Grade 7	1st

NATIONAL LABOR RELATIONS BOARD

MESTEK, INC.,

Petitioner,

v.

SHEET METAL WORKERS INTERNATIONAL
ASSOCIATION AFL-CIO - LOCAL #68.,

Respondent.

NLRB Case No.: _____

AFFIDAVIT OF (b) (6), (b) (7)(C)

I, Joanne Berwald, do hereby depose and say the following upon personal knowledge and belief:

1. My name is (b) (6), (b) (7)(C)
2. I make this Affidavit in connection with the above-captioned matter.
3. I am employed by the respondent, Mestek, Inc, as its (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
5. Among other things, my job responsibilities include (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) for the company at its Dallas, Texas facility and being (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
6. Sheet Metal Workers International Association AFL-CIO, Local #68 ("Union") was the recognized bargaining agent for employees.
7. The last Collective Bargaining Agreement ("CBA") between the Parties was in effect from August 1, 2016 to July 31, 2021. See Exhibit 1.
8. The initial term of the CBA expired August 1, 2021 and automatically rolled over in accordance with its renewal language.
9. The Union did not seek to negotiate a successor CBA prior to the initial term of the CBA expiring.
10. During the term of the 2016 – 2021 CBA as well as the renewal term from 2021 to 2022, there has been absolutely no representation activity at the facility.

11. Records indicate that out of 98 employees, only 14 employees had signed authorization for dues deductions.
12. At some point payroll stopped taking Union dues and the Union has never questioned the lack of dues or communicated in any way with my company regarding the cessation of dues collection and payment to the Union.
13. Records indicate that during the term of the last CBA, 1 employee requested, in writing, that the Company cease from taking dues deductions.
14. On May 26, 2022 a termination of CBA and Anticipatory Withdrawal of Recognition was sent via electronic mail and federal express to the last known contact for the Union. See Exhibit 2.
15. Since receiving notice of the termination of the CBA and anticipatory withdrawal of recognition, the Union has not attempted to contact my company, let alone make any attempts to schedule bargaining for a successor CBA.
16. As of this date, the CBA has been formally terminated and I have no information to indicate the situation has changed with the Union's inactivity or that there is any indication that either employees or the Union wish to negotiate a new CBA.

I have read the above 16 Paragraphs and it is true to the best of my knowledge and belief.

(b) (6), (b) (7)(C)

Sworn to before me this 2nd day of August, 2022.

COMMONWEALTH OF MASSACHUSETTS

Hampton County, ss.

August 2, 2022

On this 2nd day of August, 2022, before me, the undersigned notary public, personally appeared Joanne Berwald, who proved to me through satisfactory evidence of identification to be the person whose name is signed on this document and who affirmed to me that the contents of the document are truthful and accurate to the best of her knowledge and belief.

Diana G. Jay
Signature of Notary Public

Diana G. Jay
Name of Notary printed, typed or stamped
Notary Public, State of Massachusetts
My Commission expires: 9-22-2028

AGREEMENT
BETWEEN
MESTEK, INC.
AND
SHEET METAL WORKERS INTERNATIONAL ASSOCIATION,
AFL-CIO
LOCAL #68

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THIS AGREEMENT, is made and entered into this 31st day of July, 2016 by and between MESTEK, INC. located at 4830 Transport Drive, Dallas, Texas 75247, hereinafter called the "Company" and the SHEET METAL WORKERS INTERNATIONAL ASSOCIATION AFL-CIO, LOCAL #68, hereinafter called the "Union", and the hourly employees of the Company as defined in the bargaining unit set forth in Article 1.

**ARTICLE 1
RECOGNITION**

Section 1. The Company recognizes the Union as the sole and exclusive representative for the purposes of collective bargaining with respect to wages, hours and working conditions for all hourly paid production and maintenance employees at its 4830 Transport Drive, Dallas, Texas plant, excluding all salaried employees, clerical and professional employees, guards, and supervisors as defined in the Act, and all other employees.

Section 2. Excluded employees shall be considered and treated as non-unit employees regardless of the plant area in which they perform their work.

**ARTICLE 2
NON-DISCRIMINATION**

Section 1. The Company shall not discriminate against any employee on the basis of union affiliation, age, physical, mental, or psychiatric disability, genetics, maternity leave, national origin or ancestry, race or color, religion, sex, veteran status or active military status, sexual orientation, genetic identity.

Section 2. Wherever there is a masculine reference with the Agreement, such reference likewise applies to employees who are feminine.

**ARTICLE 3
PURPOSE AND SCOPE**

Section 1. The parties recognize that the successful day-to-day operation and the attainment of efficiency rest with both parties. Both recognize that attitudes of managerial and bargaining unit people are important to the attainment of harmonious relations and the maintenance of the Company's competitive position in its various markets. Accordingly, both parties pledge their cooperation in forthrightly administering this Agreement.

Section 2. The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that all the understandings and agreements arrived at by the parties after the exercise of those rights and opportunities are set forth in this Agreement.

Section 3. The provisions of this Agreement constitute the entire agreement between the Company and the Union and all prior agreements, either oral or written, are hereby canceled. The specific terms of this Agreement may be changed only by mutual consent, reduced to writing and signed by authorized representatives of the parties.

**ARTICLE 4
NO STRIKE-LOCKOUT**

Section 1. The Union agrees that it will not cause or permit its members to cause or participate in any strike, slowdown, stoppage of work or interference with the operations of the Company's business during the term of this Agreement. In the event any member causes or participates in any of these prohibited acts, the Union agrees to immediately instruct those members involved to cease such unauthorized conduct.

Section 2. The Company has specifically reserved the right to discipline up to and including discharge, any employee who instigates, participates or gives leadership to any of these prohibited activities.

Section 3. During the term of this Agreement the Company will not lockout.

**ARTICLE 5
UNION MEMBERSHIP-CHECKOFF**

Section 1. The Union agrees that membership in the Union will be made available to all on an equal basis without discrimination.

Section 2. Upon receipt of a signed individual authorization from any employee covered under this Agreement, the Company shall withhold from such employee's earnings, payment of Union dues and initiation fees. Deductions shall be made from the first pay day of each month of said employee and promptly remitted to the Financial Secretary of the Union together with a list of the names of the employees to whom said monies are to be credited. Shall any employee have no earnings due him on the first pay day of any month; deductions shall be made from the next succeeding pay of the employee.

The Company, upon request by the Union, agrees to deduct union dues on a weekly basis, provided that an employee's individual deduction shall remain a constant amount during any given calendar year.

Section 3. The Union shall indemnify and save the Company harmless against all liability that may arise as a result of action taken by the Company for the purpose of complying with the checkoff provision of this Agreement, or for any loss by action or omission of the Union or its officers. The Union shall keep the Company informed of the regular monthly dues and initiation fees, the amount thereof and any changes therein.

Section 4. It is understood that this checkoff agreement is revocable by an employee up to the time that the first deduction for union dues or initiation fee is made from the employee's pay, and once during each twelve (12) month period following the date of the employee's checkoff authorization as follows:

(a) Not more than twenty (20) days and not less than ten (10) days prior to the expiration of each period of one (1) year of each Collective Bargaining Agreement between the Company and the Union, or one (1) year from the date of delivery of the checkoff authorization form to the Company, whichever occurs sooner.

(b) The checkoff authorization may be revoked by the filing of a written revocation with the Company and the Union within the time periods set out in sub-paragraph (a) above.

Section 5. The Employer agrees to honor political contribution deduction authorization forms voluntarily signed by an employee in the following manner:

(a) The political contribution of eighty cents (80c) per week shall be made on each weekly pay period during each month in which an employee has sufficient earnings for such deductions. The deductions thus made shall be remitted to the Financial Secretary of the Local Union by the twenty-fifth (25th) day of each month for deductions made the preceding month. The check for all such moneys deducted shall be made payable to "PAL Political Fund and/or AFL-CIO COPE".

(b) The standard Dues Deduction Form supplied by the Local Union may be used for reporting such deductions.

ARTICLE 6 MANAGEMENT RIGHTS

Section 1. It is agreed that the rights of the management of the Company have been bargained, and include specifically, but are not limited to the following:

- (a) The determination of location and number of plants;
- (b) The determination of products to be manufactured and services to be performed;
- (c) The standards of quality to be maintained and the workmanship required;
- (d) The scheduling of production;
- (e) The type and quantities of machines, tools and equipment to be used;
- (f) The methods, processes and means of machining, assembling, servicing and repairing products;
- (g) The control of all designs and engineering determinations;
- (h) The purchase, control, and use of raw materials;

- (i) The choice and purchase of semi-manufactured and finished parts to be used;
- (j) The right to place work with outside contractors;
- (k) The use of non-bargaining unit people for production and maintenance where their skill is necessary, in emergencies, for training, and unusual business situations, but not for regular continuing production activities for new or existing product lines which would displace or eliminate the need for regular bargaining unit positions;
- (l) To establish reasonable rules of plant conduct;
- (m) To introduce changes in methods, jobs or facilities;
- (n) To establish reasonable production standards, time-studied or otherwise;
- (o) To increase or decrease the business as warranted;
- (p) To generally manage the Company's business as deemed best.

Section 2. The Company shall also have exclusive right to direct its employees, including but not limited to, the right to hire, promote, demote, transfer, layoff, discharge or discipline for cause, and to maintain discipline among employees, subject only to the specific limitations of this Agreement.

Section 3. The Company shall have the right to establish, maintain, and enforce reasonable rules and regulations to assure orderly plant operations, so long as such rules and regulations do not specifically conflict with the provisions of the Agreement. Such rules and regulations shall be posted on the Company bulletin boards and copies furnished the Union, including all changes in such rules and regulations, provided however, that changes in any rules and regulations shall not become effective until three (3) work days after copies thereof have been furnished to the Union and posted on the bulletin board. If the Union considers a proposed Company rule or regulation to be unreasonable, inconsistent, or in conflict with any provision of this Agreement, it shall be subject to the Grievance and Arbitration Procedure.

ARTICLE 7 UNION REPRESENTATION

Section 1. The Union may appoint a Chief Steward, and two (2) Assistant Stewards on the day shift, and one (1) Assistant Steward on the second shift.

Section 2. Designated stewards will have full-time assignments within the plant which may be interrupted for brief periods to perform necessary grievance investigations (not solicit), within their jurisdictional area and meetings with Management per Article 8. No Grievance investigation and/or meeting with Management shall occur during the first hour of any shift. At no time will

authorized Union activity cause any interference with production operations. Shop stewards shall make arrangements with their supervisor prior to leaving their work station to investigate a grievance and/or meet with Management; will check in with the supervisor of any department where business is to be conducted, and will notify his or her supervisor upon return. The Company specifically reserves the right to control Company paid time by discontinuing such payment in event abuses of this privilege are deemed to exist.

Section 3. Shop stewards have no authority to take, encourage or permit strike action, or any other action interrupting the Company's business.

Section 4. Upon notification to the Company, an authorized Representative or Officer of the Union shall have access to the plant during business hours for the purpose of conducting legitimate Union business.

Section 5. The Company and all employees recognize the Union's Business Agent as having full authority to make determinations for the Union in respect to all grievances.

ARTICLE 8 GRIEVANCE PROCEDURE

Section 1. The word "grievance" as used in this Agreement means a complaint filed by a seniority employee alleging failure of the Company to comply with some specific provision of this Agreement not excluded from this grievance procedure. A grievance, to be recognized, must be brought to the attention of the Company within five (5) working days of the event giving rise to the dissatisfaction.

Section 2. If a grievance should arise between an employee and the Company, it shall be settled in the following manner:

STEP 1. The aggrieved employee or employees shall first attempt to adjust the matter with the supervisor, with or without the assistance of the shop steward, as the employee or employees may elect. The supervisor shall give his answer within two (2) working days.

STEP 2. Any grievance which cannot be satisfactorily settled in Step 1 shall be reduced to writing and submitted to the Department Manager or his designee within three (3) working days after receipt of the Company's answer in Step 1. The Department Manager or his designee shall render a decision within five (5) working days after submission of the grievance in Step 2.

STEP 3. In the event the Department Manager's decision in Step 2 is unsatisfactory to the Union, the grievance shall be submitted to the President within three (3) working days after receipt of the Department Manager's answer in Step 2. The President shall render a decision within three (3) working days after submission of the grievance.

Section 3. In the event the Company's decision at the conclusion of Step 3 is unsatisfactory to the Union, the grievance may be appealed to arbitration as provided in Article 9. Unless the decisions as rendered in Step 1, 2, or 3 are appealed within the established time limits, the Company's position shall be deemed to be acceptable and shall be final and binding.

Section 4. No grievance, the basis of which occurred prior to the date of the signing of this Agreement, shall be subject to adjustment by the grievance procedure set forth above.

Section 5. Grievances which are based upon events arising subsequent to the termination of this contract, which would otherwise be covered by this contract, are expressly excluded from this contract and the Company is not obligated to process such a grievance or to proceed to arbitration thereon.

ARTICLE 9 ARBITRATION

Section 1. If a grievance is not settled in the Steps provided in the Grievance Procedure, the Union may submit the dispute to arbitration within ten (10) days, providing prior notice in writing of five (5) days is given to the Company of intention to arbitrate.

Section 2. If they are not able to mutually settle upon a satisfactory arbitrator, the Union may request the Federal Mediation and Conciliation Service to submit a list of five (5) impartial arbitrators. The Company and the Union shall alternately strike one (1) name until four (4) names have been stricken, the remaining name shall be that of the arbitrator. Whether the Company or the Union makes the first deletion from said list of five (5) names will be determined by lots in the case of each arbitration.

Section 3. The arbitrator, in reaching his decision, shall have no authority to modify, amend, revise, add to or subtract from any of the terms and conditions of this Agreement.

Section 4. During the hearing, each party shall have full opportunity to present evidence and argument, both oral and documentary. The arbitrator will render his findings and award in writing within a reasonable period after the conclusion of the hearing. The decision of said arbitrator shall be final and binding on both parties.

Section 5. All of the time periods within which acts are to be performed by the parties hereto may be extended in writing by mutual agreement of the parties.

Section 6. The fees and expenses of the arbitrator, and other expenses deemed necessary by the arbitrator for the proper conduct of the proceedings shall be shared equally. Any expenses connected with the calling of any witnesses shall be borne by the party calling them. The party requesting the services of a Court Reporter shall pay for same unless the other party desires a copy, then it shall be split.

Section 7. Where the arbitrator rules and directs that an employee or employees be re-instated and paid for lost wages, any interim earnings received by such employees shall be deducted from the back pay. If such employees have received unemployment compensation from any State or Federal Agency, the full amount shall be deducted from the back pay.

**ARTICLE 10
SENIORITY**

Section 1. Each new employee shall be regarded as probationary until such employee has actually worked ninety (90) working days for the Company. Such employee shall not be subject to the terms of this Agreement, except as otherwise provided herein.

Section 2. "Seniority" is defined as the length of an employee's continuous service with the Company dating from the date of employment or re-employment. An employee's seniority shall terminate according to Section 6 of this Article.

Section 3. The Company shall furnish the Union with an up-to-date seniority list every three (3) months upon request.

Section 4. In all cases of promotion to regular full time positions within the bargaining unit, transfers (other than temporary transfers) to such positions, demotions, layoffs and recall of employees to work who have been laid off, the following factors will be considered:

(a) Skill and ability to do the work efficiently. (When skill and ability is deemed approximately equal by the Company in the case of respective employees in question, seniority shall govern).

(b) Seniority.

The Company shall conduct layoffs on a departmental basis in accordance with this section.

Section 5. In cases of jobs newly created or vacant which are regular full time positions (except Leadmen positions), the Company will post such openings on the bulletin board for a period of three (3) days. However the Company may temporarily fill a position pending the selection of an applicant. The successful bidder(s) shall be determined in accordance with article 10, section 4.

If, in the opinion of the Company, no employee who bids on the job is immediately qualified and able to perform the work required, the Company may, at its option, repost the job (or repost for a trainee) or hire or transfer from outside the bargaining unit. Once an employee bids on a job and fails to meet the qualifications for that job, he is not eligible to bid upon the same job again for a period of ninety (90) days. An employee may not have more than three (3) successful bids in any one (1) year period.

Section 6. An employee's seniority shall terminate for any of the following reasons:

(a) Resigns or retires;

(b) Is discharged for just cause;

(c) Notwithstanding the provisions of Article 13, absences due to sickness or accident beyond a period of six (6) months, if the employee has less than twelve (12) months of continuous service, or twelve (12) months, if the employee has twelve (12) or more months of continuous service, except in the case of an industrial accident suffered by an employee in the course of his employment which is compensable under the Texas Worker's Compensation Act, in which case, the time periods started herein shall be extended by three (3) months provided the employee continues to be totally disabled.

(d) Absence due to layoff beyond a period of six (6) months if the employee has less than twelve (12) months of continuous service or twelve (12) months if the employee has more than twelve (12) months of continuous service.

(e) Failure to report within two (2) working days following a layoff after having been notified by the Company to report to work, except if the employee notified the Company within such period that he is outside the state of Texas, he may be allowed the actual common carrier travel time to the plant from the point of his departure. During this waiting period, the Company may cover the job in any way it chooses. It will be conclusively presumed that a telegram or registered letter properly stamped and addressed to the employee at the last address furnished by him to the Company was received by the employee within three (3) days from the time of mailing;

(f) Unexcused absence for three (3) working days without an excuse acceptable to the Company or without notifying the Company during such period of such valid excuse. Such unexcused absence shall be considered a voluntary resignation by the employee;

(g) Permanent cessation of operations of the Company of the work carried on by the employee and/or the bargaining unit;

(h) Conviction of a felony. An admission to a lesser charge or a plea of nolo contendere to the original charge will be deemed to be a guilty finding of the original charge.

ARTICLE 11 HOURS AND OVERTIME

Section 1. The normal regularly scheduled work week will be Monday through Friday.

Section 2a. The normal work week will be forty (40) hours; time and one-half at the employee's regular rate of pay will be paid for all hours worked in excess of forty (40) in any one work week. When operating on a five (5) day, eight (8) hour schedule, time and one-half will be paid at the employee's regular rate of pay for hours worked in excess of eight (8) in any one work day. When operating on a four (4) day, ten (10) hour schedule, time and one-half will be paid at the employee's regular rate of pay for hours worked in excess of ten (10) in any one work day. When the four (4) day, ten (10) hour schedule is in effect, overtime hours on Friday and/or Saturday will be paid at time and one-half. However, all affected employees must work forty (40) hours in the pay period at their regular rate of pay when such hours are made available to them in order to

qualify for any overtime pay. The Company will let the Union know when any changes in work schedule are put into effect.

Excused bereavement, jury duty, military leave, vacation days, paid bonus days or Union business will be considered as time worked for the purpose of this section.

Section 2b. All hours worked on Sundays shall be paid at two (2) times the employee's regular rate of pay.

Section 2c. All hours worked on paid holidays shall be paid at two (2) times the employee's regular rate of pay. Such employee shall receive holiday pay in addition provided that such employee qualifies for holiday pay in accordance with Article 18.

Section 2d. The starting time on the day shift shall begin each day between 6 AM and 9 AM as determined by Management, or such other hours as mutually agreed between the Company and the Union, provided that five (5) days written notice has been received by either party. However, by mutual consent between the majority of the employees involved and the Company, an earlier starting and quitting time for the months of July and August may be established.

Section 3. The foregoing provisions of this Section describe the regular work day or work week and are not intended to be construed as a guarantee of hours of work per day or per week provided that no employee shall be given time off to make up for his overtime work in any week.

Section 4. Each employee shall receive two (2) rest periods of fifteen minutes each, one in the morning and one in the afternoon during the regular scheduled work day for which there will be no reduction in pay. In addition, the employees on the day shift will be entitled to a lunch period of thirty (30) minutes without pay. Any employees on the second shift will be entitled to an unpaid lunch period of thirty (30) minutes.

If an employee is required to work more than ten (10) consecutive hours, the Company shall give such employee a ten (10) minute paid supper break upon completion of the tenth (10th) hour of work. Except for such paid supper break, lunch periods shall be without pay and the timing of or changes in the rest periods and lunch periods will be determined by the Company. The Company may stagger lunch periods, rest periods, and the supper break to provide for continuous operation of equipment and/or processes.

Employees required to work more than twelve (12) hours in any one (1) work day shall receive an additional ten (10) minute rest period every two (2) hours.

Section 5. Overtime shall be assigned to the employee(s) who normally perform the job on which the overtime is scheduled. Each department employee will be assigned to work the overtime in the department that requires the overtime. If overtime is not required for the entire department, the employee who has been performing the job during the regular shift shall be offered the overtime. Assigned overtime, within the limitations of this section, not worked and other scheduled overtime which the employee agrees to work but does not work shall be charged to an employee's attendance record and shall be considered time missed within the scope of Article 23, Section 1. Employees

shall be given twenty-four (24) hour advance notice of weekend overtime. However, no employee shall be required to work on the first weekend of the month, or any weekend bounded by a Friday or Monday paid holiday.

Upon approval by the Company, such approval not to be unreasonably withheld, an employee who elects to take a paid bonus day on a Friday or a Monday, shall not be required to work overtime on the respective Saturday.

Overtime shall not be mandatory on the following: after ten (10) hours Monday through Thursday, after eight (8) hours on Friday, Saturday or any substitute payday, nor shall it be to work on Sundays or holidays listed in this Agreement.

Section 6. In the event that a second or third shift is established, each employee shall be paid a minimum of fifty cents (\$0.50) per hour premium rate for all work actually performed on said shifts.

ARTICLE 12 REPORT-IN AND CALL BACK

Section 1. Whenever an employee who has finished his regularly scheduled shift and left the Company premises is called back by the Company, to work, said employee shall receive two (2) hours call-back pay at his straight-time rate in addition to whatever pay is due him under the contract for hours worked.

Section 2. Any employee who is scheduled or required to and does report on any day and is not put to work for at least four (4) hours, shall receive a minimum of four (4) hours pay from the Company, except where failure to put such employee to work is caused by a failure of power, major breakdown of equipment, an Act of God, or a reason out of the direct control of the Company.

ARTICLE 13 LEAVES OF ABSENCE

Section 1. Upon proper application, a seniority employee who has no unused vacation, may be granted an unpaid leave of absence not exceeding ninety (90) days, and shall retain his seniority rating providing he does not work for another employer. If the Company grants a leave of absence to any employee, a written copy of the granting instrument shall be sent to the Union within one week of the date of such granting.

Section 2. Notwithstanding the provisions of Article 13, Section 3, any employee may be granted a sick or accident leave by the Company upon the basis of the facts and the presentation of a certification from a doctor designated by the Company or the presentation of a statement from the employee's personal doctor which, in the opinion of the Company, satisfactorily states adequate medical reasons necessitating the employee's absence from work.

Section 3. The Company will comply with the Family Medical Leave Act, as amended, for eligible employees.

Section 4. The Company and the Union agree to comply with the Federal Law relating to the rights of employees who enter the military service of the United States or serve as active reservists.

**ARTICLE 14
HEALTH AND SAFETY**

Section 1. The Company agrees to make reasonable provisions for the health and safety of its employees during the hours of their employment, including provisions for first aid, needed safety devices and special protective equipment.

The Union agrees to reasonable and/or appropriate efforts to help promote safety and accident prevention at the plant. Poor safety practices by an employee is just cause for discipline.

Section 2. An employee injured on-the-job will be paid for the balance of his shift at his regular straight time rate of pay, providing the physician attending the injury certifies to the disability for the balance of the shift.

Section 3. The Company agrees to furnish safety glasses and gloves considered necessary for the safety and health of employees.

**ARTICLE 15
BULLETIN BOARD**

Section 1. The Company shall provide a bulletin board in each building for the exclusive use of the union. All notices shall be provided to the Human Resources Manager for approval and promptly posted if approved.

**ARTICLE 16
BEREAVEMENT-FUNERAL**

Section 1. A seniority employee who is absent from work solely due to the death of the spouse, mother, father, brother, sister, mother-in-law, father-in-law, grandparents, children or stepchildren, grandchildren or great-grandchildren, he or she shall be entitled to three (3) consecutive working days off with pay, computed at the employee's regular straight time rate, provided that the employee attends the funeral.

Section 2. When death occurs outside the United States, or when the employee fails to attend the funeral, the employee shall be entitled to one (1) day off with pay for the purpose of attending memorial services. In the event of the death of a mother or father, the employee shall be entitled to three (3) days bereavement leave with pay.

Section 3. A seniority employee shall be granted a one (1) day excused absence with pay for the purpose of attending the funeral of a brother-in-law, sister-in-law, aunt or uncle. Such one (1) day paid bereavement leave shall be considered as time worked for the purpose of the Attendance Incentive Plan as set forth in Article 23.

The Company may request documentation of funeral attendance.

If the funeral falls on the day before or after a paid holiday, the employee will receive his holiday pay as though he or she had worked to qualify.

ARTICLE 17 JURY PAY

Section 1. After official notice, the Company shall grant non-probationary employees who are required to serve on local Jury Duty service the difference, if any, between the employee's regular straight time hourly earnings and the Jury fee paid to the employee, provided such employee works the remainder of the shift following the lunch period if reasonably practical.

ARTICLE 18 HOLIDAYS

Section 1. The following paid holidays shall be observed regardless of the day of the week on which they fall, providing all the conditions of this Article are met:

New Year's Day	Day After Thanksgiving Day
Memorial Day	Christmas Eve Day
July 4th	Christmas Day
Labor Day	New Year's Eve Day
Thanksgiving Day	

Section 2. The following conditions shall apply regarding holidays:

(a) An employee must have completed 30 days actually worked and comply with Section (b) and (c) of this section.

(b) No holiday pay will be paid any employee who does not work the full last scheduled work day before the holiday and the full first scheduled work day after the holiday, unless such absence is specifically excused by the Company. Saturday and Sunday shall not be considered as scheduled work days normally worked for the purpose of holiday pay. However, an employee who is less than one hour tardy on the scheduled work day immediately before or after the holiday shall not forfeit his holiday pay.

(c) When one of the above holidays falls within an eligible employee's vacation period, and he is absent from work during the scheduled work week because of such vacation; holiday pay will be given in addition to the vacation pay.

(d) Employees on an approved FMLA or Personal Leave of Absence are not eligible for holiday pay for any holiday that occurs during their absence from work.

Section 3. Holiday pay shall be computed on the basis of eight (8) hours regular straight time pay.

Section 4. When required to work on the holiday, an employee shall be paid at two (2) times his regular straight time hourly rate for all hours actually worked in addition to receiving holiday pay.

Section 5. Any holiday that falls on a Sunday may be observed on the following Monday. Any holiday that falls on a Saturday may be observed on the preceding Friday.

ARTICLE 19 VACATIONS

Section 1. Vacations with pay shall be granted in the following schedule:

<u>Length of Service</u>	<u>No. of Hours of Vacation</u>
1 Year, but less than 2 Years	40 hours
2 Years to 10 Years	80 hours
10 Years to 20 Years	120 hours
Over 20 Years	160 hours

Section 2. Employees shall be compensated for a vacation day at eight (8) times their regular hourly rate of pay if on a five (5) day, eight (8) hour schedule or ten (10) times their regular hourly rate of pay if on a four (4) day, ten (10) hour schedule, times the number of vacation days received.

Section 3. Vacations shall be non-cumulative, but if it is agreed by the Company and the employee, the Company may grant him vacation pay in lieu of time off, and the employee may work during his vacation time.

Section 4. Vacations will be scheduled only after completion of one (1) year of service and the employee will receive his earned vacation pay on the first regular pay day preceding his vacation period. He shall then take his vacation if his absence would not impair the production schedule. However, the Company and employee shall agree on a vacation period time for such employee as soon as possible. Subsequent vacations may be scheduled and earned only on completion of each successive full year of service.

Employees shall not be absent on vacation for more than two (2) consecutive weeks at a time without permission of the Company.

Section 5. The Company may schedule a general vacation shutdown for no more than one (1) week, retaining a partial work force sufficient to perform required work. Such work shall be offered to the most senior employee with the skill and ability to perform the required work. The Company shall give the employees notice of the shutdown period no later than April 1. Also, earned vacations in excess of the shutdown period may be taken at other times.

Section 6. Senior employees shall be given first preference to select vacation periods, however senior employees may not bump junior employees' scheduled vacation if said junior employees have had their vacation scheduled for a period of thirty (30) days or more. A vacation period may be scheduled or changed only with a minimum of five (5) working days notice and mutual agreement between the Company and the employee.

On occasion, personal circumstances may arise that prevent an employee from providing the minimum five (5) day advance notice for scheduling vacation or personal days. If such a situation arises, a less than five (5) day notice would be acceptable as determined by the Company. However, it is the intent of the Union and the Company to have a minimum of twenty-four (24) hour notice provided by the employee, except in the case of dire emergency.

Such agreement of a late schedule change by the Company would not establish a practice or precedent for future denials by the Company if the situation warrants. Any such denial will not be made without a legitimate business reason.

Section 7. The following schedule of hours actually worked during the vacation eligibility year for each employee shall determine such employee's paid vacation earned:

- (i) 1500 hours and above – full vacation;
- (ii) Less than 1500 hours – divide actual hours worked by 1500 to determine the percentage of paid vacation earned.

ARTICLE 20 RETIREMENT PLAN

Section 1. The Company and the Union have negotiated a 401(K) Retirement Plan which is incorporated by reference and made a part of this Agreement. An employee is eligible to participate on the first of the month following twelve (12) months of continuous service as defined by the plan. A copy of the summary plan description will be given to each covered employee upon request.

Section 2. The Company shall contribute \$.15 per hour worked into each eligible employee's personal 401(K) account, provided such employee was hired prior to August 1, 2000 (grandfathered employees).

Section 3. Effective August 1, 2000 the Company agrees to contribute additional money into each eligible employee's personal 401(k) account in accordance with the following formula:

The Company will provide a 25% matching contribution for each dollar of voluntary pre-tax contributions by an eligible employee, up to a limit of a contribution by the employee of 6% of his wages. The employee shall be permitted to contribute more than 6% of his wages, however no 25% match shall be made by the Company for such additional contributions by the employee. An employee who chooses to contribute less than 6% of his wages shall be eligible for the 25% match by the Company.

**ARTICLE 21
INSURANCE**

Section 1. The current employee medical benefit plan and dental plan of Mestek, Inc. are incorporated by reference into this agreement. The Company shall, following thirty (30) days notice to the Union be permitted to substitute a local PPO or HMO medical plan and/or dental plan, and/or modify the plans as modifications occur in Mestek's corporate plans. The Company will continue to provide medical and dental coverage to eligible employees, as defined below. Future plan provisions and plan design may be affected by cost escalation. Plan benefits will begin on the first day of the month following completion of each employee's probation period, provided such employee elects to participate in the plan(s).

Section 2. The weekly contribution rate shall be adjusted on January 1 of each year in accordance with current working/Cobra rates. Any increase will not exceed \$3.00 per each contribution rate for the single plan, or \$4.00 for the family plan.

Section 3. Life and AD&D Insurance will be provided at the rate in accordance to the following schedule:

Year 1: \$22,000
Year 2: \$22,000
Year 3: \$22,000
Year 4: \$25,000
Year 5: \$25,000

The Company shall make reasonable efforts to make available a voluntary supplemental life insurance program that provides group rates for employees who wish to purchase additional life insurance coverage for themselves and/or their dependents.

Section 4. Effective the first day of the month following completion of each eligible employee's probation period, the Company shall provide a Sickness and Accident benefit of \$270.00 per week in Years 1 - 3, and \$300.00 per week in Years 4 and 5, though not to exceed fifty percent (50%) of such employee's regular wage rate multiplied by forty (40), and not to exceed thirteen (13) weeks in each calendar year.

This benefit will begin on the first day of absence in the case of a non-work related accident, and the eighth (8th) day of absence caused by an illness unless such employee is hospitalized, in which case this benefit will begin on the first day of confinement in a hospital.

**ARTICLE 22
WAGE RATES**

Section 1. For duration of this Agreement, the hourly rates of pay shall be those set out in **Exhibit "A"** attached hereto and made a part hereof for all purposes, provided that:

(a) The Company retains the right to set starting wages for new employees based upon the skill, ability, and experience of such new employees and based upon general employment market conditions; but said starting wages shall not exceed prevailing shop wages for current employees with the same job duties. It is understood that the Company may call upon an employee to perform, and such employee shall perform, his duties as regularly assigned, and such additional duties and responsibilities as may be assigned which do not require substantially greater skill and ability than those ordinarily performed in his regular job.

(b) If an employee is assigned to perform work of a higher rated job classification, he shall be paid the wage differential appropriate to such higher classification. For accounting purposes, such payments may be rounded up or down to the nearest full day, provided this rounding is done in good faith by the Company. If an employee is temporarily assigned to perform work of a lower rated job classification, such employee shall suffer no reduction in his wage.

(c) Management may award individual merit increases based on outstanding performance by an individual employee. The regular date for such possible merit increases shall be August 1, however nothing herein shall preclude the award of a merit increase at a different date under special or unusual circumstances.

(d) Any merit increase must be a minimum of \$.25 per hour. Any merit increase shall be based solely upon objective performance criteria. The Company agrees to use reasonable efforts to be as fair, impartial, and equitable as possible in the evaluation of each employee based upon the above agreed criteria.

ARTICLE 23 ATTENDANCE INCENTIVE PLAN

Section 1. Employees may earn additional days off by meeting attendance/tardiness requirements during the term of this Agreement.

In each three (3) month period an employee shall be credited with one eight (8) hour day off providing:

- (1) He has missed no more than twelve (12) hours of work consisting of absence, tardiness, and/or leaving early, and,
- (2) No more than four (4) occurrences of any type within the three (3) month period.

An employee shall not be charged with missing more than eight (8) hours of time in any scheduled work day.

Thus, an employee may be credited with up to four (4) days off in a one year period: Plus one (1) additional day, if applicable, in accordance with Section 2 of this article.

Should the employee choose not to take the credited days as time off, the Company will buy out the credited days at the rate of ten (10) straight time hours per day.

If an employee exceeds the above twelve (12) hour limit, or the four (4) occurrence limit, the first working day of the following month will begin a new eligibility period.

Earned bonus days under this section may be taken immediately when earned, provided they are properly scheduled with a minimum of five (5) days notice, or may be banked for future use. An employee may accumulate up to five (5) such days. Bonus days earned in excess of five (5) such accumulated days shall promptly be paid to the employee at the rate of ten (10) straight time hours for each bonus day earned.

Section 2. Any employee who successfully earns four (4) consecutive "Bonus Days" under the provisions of Section 1 above shall be awarded one additional day off with pay, i.e., a "fifth day". No employee shall earn more than five (5) paid days off in any twelve month period under this Article (i.e., once an employee successfully earns his "fifth day", such employee shall be required to earn an additional four (4) consecutive "Bonus Days" prior to becoming eligible for an additional "fifth day".

Each eligible employee shall have the option of cashing in the earned "fifth day" for ten (10) hours of straight time pay, banking such day for future use, or scheduling such day all in accordance with the language in Section 1 above.

Days off or payments in lieu of days off must be taken within twelve (12) months of the time they were earned. Excused bereavement, jury duty, military leave or union business will not be charged against employee absence.

ARTICLE 24 PLANT CLOSING

While the Company has no intention of closing the Dallas facility during the term of this Agreement, if the Company ever did so – in the future – there will be an "effects bargaining" process which would include "severance pay" based on the following principles: efficiency of production; quality of production; safety; and years of service. Whatever payments were bargained collectively at that time would be paid to all employees who were to stay with the Company, as needed, until the closing of the facility.

**ARTICLE 25
VALIDATION-DURATION**

Section 1. In the event this Agreement or any part thereof be rendered or declared invalid by reason of any existing or subsequently enacted legislation or by decree of a court of competent jurisdiction, all other portions of the Agreement shall remain in full force and effect.

THIS AGREEMENT, shall be and remain in full force and effect from August 1, 2016 to Midnight on July 31, 2021 and from year to year thereafter unless sixty (60) calendar days notice shall be given in writing by certified mail by either party to the other prior to the expiration of this Agreement, or any annual renewal date thereafter of its desire to amend, modify, or terminate this Agreement. Such notice by either party shall cause this entire Agreement to terminate on the respective expiration or anniversary date.

SIGNATURES:

FOR THE UNION

CALVIN YOUNG

FOR THE COMPANY

G. MICHAEL KALER

BEN MCCARTY

JOANNE BERWALD

RAUL GONZALEZ

EXHIBIT A
WAGE RATE DIFFERENTIAL SCHEDULE

<u>JOB GRADE</u>	<u>PREMIUM ABOVE BASE RATE</u>
4	\$0.00 (Base Rate)
5	\$0.40 per hour above Job Grade 4
6	\$0.40 per hour above Job Grade 5
7	\$0.50 per hour above Job Grade 6
8	\$0.50 per hour above Job Grade 7

Note 1: The Company retains the right to adjust starting rates upward or downward, depending on general employment market conditions; however, the above premiums shall apply to employees bidding into a higher or lower job grade. For example, each employee who successfully bids into Job Grade 6 from Job Grade 5 shall receive an increase of \$0.40 per hour. Each employee who successfully bids down from Job Grade 6 to Job Grade 5 shall have a reduction of \$0.40 per hour. The above premium differentials shall remain constant regardless of the starting rates.

Note 2: If the Company adjusts the starting rates downward, no employee, including probationary employees, shall suffer a reduction of his wage rate; and no employee shall be deprived of any future wage increases as required by this Agreement.

Note 3: Each probationary employee who successfully completes his probationary period shall receive a wage increase of \$0.25 per hour effective immediately upon completion of probation.

Note 4: If the Company adjusts starting rates upward, each employee with at least one year seniority at the time of said upward adjustment shall be paid a minimum of \$0.30 per hour above the new starting rate of his job grade.

WAGE ADJUSTMENTS

Effective August 1, 2016, and each August 1 thereafter during the life of this agreement, each individual employee on the seniority list, including probationary employees, shall be eligible to receive the following wage rate increase:

August 1, 2016	\$0.20 per hour
August 1, 2017	\$0.35 per hour
August 1, 2018	\$0.35 per hour
August 1, 2019	\$0.40 per hour
August 1, 2020	\$0.40 per hour

JOB GRADES AND JOB TITLES
Effective August 1, 2000

GRADE 4

Assembler I (Assy I)
Brazer I (Brazer I)
Crater (Crater)
Janitor (Janitor)

Fab Helper (Fab Helper)
Material Handler I (Mat'l Hndlr I)
Laborer (Laborer)

GRADE 5

Assembler II (Assy II)
Assembler Welder I (Assy Weld I)
Brazer II (Brazer II)
Coil Assembler I (Coil Assy I)
Forklift Driver (Forklift)
Electrical Assembler I (Elect Assy I)
Electrician I (Elect I)

Machine Operator I (Mach Oper I)
Maintenance Mechanic I (Maint Mech I)
Material Handler II (Mat'l Hndlr II)
Painter (Painter)
Shipping Clerk I (Ship Clerk I)
Welder I (Weld I)

GRADE 6

Assembler III (Assy III)
Assembler Welder II (Assy Weld II)
Brazer III (Brazer III)
Boiler Operator (Boil Oper)
Coil Assembler II (Coil Assy II)
Coil Tester (Coil Tester)
Electrical Assembler II (Elect Assy II)
Electrician II (Elect II)

Iron Worker (Iron Worker)
Machine Operator II (Mach Oper II)
Maintenance Mech II (Maint Mech II)
Material Handler III (Mat'l Hndlr III)
Piper I (Pipe I)
Shipping Clerk II (Ship Clerk II)
Welder II (Weld II)

GRADE 7

Assembler IV (Assy IV)
Electrician III (Elect III)
Machine Operator III (Mach Oper III)
Material Handler IV (Mat'l Hndlr IV)

Piper II (Pipe II)
Tester I (Tester I)
Welder III (Weld III)
Maintenance Mech. III (Maint Mech III)

GRADE 8

Certified Welder (Cert Weld)
Leadman (Leadman)
Senior Mechanic (Sr Mech)

Machinist (Machinist)
Senior Tester (Sr Test)
Senior Piper (Sr Pipe)

Memorandum of Understanding

During the negotiations for a successor Collective Bargaining Agreement between Mestek, Inc. and Local #68, SMIA, it was agreed that:

1. The Company and the Union agree that a Union representative will have a 30 minute time period, immediately following the Company's initial orientation (which is typically done at 6:00 a.m. on the employee's first day of employment), to share a DVD and provide additional orientation as laid out on an agreed-upon outline.
2. The Company shall first have the right to view the DVD and agree on the Union's orientation outline.

Signatures:

For the Union:

For the Company:

CALVIN YOUNG

BEN McCARTY

Exhibit 2

11:54 AM	IRVING, TX	At local FedEx facility
Friday, May 27, 2022		
2:13 PM	IRVING, TX	At local FedEx facility
9:26 AM	IRVING, TX	Delay Customer not available or business closed.
8:37 AM	IRVING, TX	Shipment arriving On-Time
8:03 AM	IRVING, TX	At local FedEx facility
8:03 AM	IRVING, TX	On FedEx vehicle for delivery
7:10 AM	IRVING, TX	Delay Customer not available or business closed.
6:23 AM	IRVING, TX	At local FedEx facility
6:23 AM	IRVING, TX	On FedEx vehicle for delivery
5:37 AM	IRVING, TX	At local FedEx facility
5:09 AM	DALLAS, TX	At destination sort facility
4:29 AM	INDIANAPOLIS, IN	Departed FedEx hub
Thursday, May 26, 2022		
8:55 PM	WINDSOR LOCKS, CT	Left FedEx origin facility
7:24 PM	WINDSOR LOCKS, CT	Shipment arriving On-Time
7:08 PM	WINDSOR LOCKS, CT	Picked up
12:51 PM		Shipment information sent to FedEx

Expand History 

Shipment Facts

TRACKING NUMBER
776969894989

WEIGHT
0.5 lbs / 0.23 kgs

TOTAL SHIPMENT WEIGHT
0.5 lbs / 0.23 kgs

PACKAGING
FedEx Envelope

SERVICE
FedEx First Overnight

DELIVERED TO
Receptionist/Front Desk


TERMS
Shipper

SPECIAL HANDLING SECTION
Deliver Weekday

DOOR TAG NUMBER
DT105995423273, DT106199440482

TOTAL PIECES
1

SHIPPER REFERENCE
MI-0

SHIP DATE
5/26/22 

OUR COMPANY

About FedEx(<https://www.fedex.com/en-us/about.html>)

Our Portfolio(<https://www.fedex.com/en-us/about/company-structure.html>)

Investor Relations(<https://investors.fedex.com/investor-home/default.aspx>)

Careers(<https://careers.fedex.com/fedex/>)

FedEx Blog(<https://www.fedex.com/en-us/blog.html>)

Corporate Responsibility(<https://www.fedex.com/en-us/about/corporate-social-responsibility.html>)

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ShopRunner(<https://www.fedex.com/en-us/shoprunner.html>)

LANGUAGE

 Change Country/Territory(<https://www.fedex.com/?location=home>)

FOLLOW FEDEX  (<https://www.fedex.com/en-us/email.html>)  (<https://www.facebook.com/FedEx/>)

 (<https://twitter.com/fedex>)  (<https://www.instagram.com/fedex/>)  (<https://www.linkedin.com/company/fedex>)

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| [center.html](#))

(<https://www.fedex.com/en-us/trust->

ORIGINATOR (413) 736-4538
 (b) (6), (b) (7)(C)
 SULLIVAN, FAYES & QUINN
 ONE MONARCH PLACE - SUITE 1200

SHIP DATE: 26MAY22
 ACTWGT: 1.00 LB
 CAD: 1007832194NET4490

SPRINGFIELD, MA 01144
 UNITED STATES US

BILL SENDER

TO (b) (6), (b) (7)(C)

SHEET METAL WORKERS INTER.ASSOC.L68
 1020 S INDUSTRIAL BLVD

EULESS TX 76040

(817) 287-9213
 INV
 PO



FRI - 27 MAY 8:00A
 FIRST OVERNIGHT

TRK# 7769 6989 4989
 0201

N1 DALA

76040
 TX-US DFW



After printing this label:

1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

Warning: Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional billing charges, along with the cancellation of your FedEx account number. Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income, interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see current FedEx Service Guide.

Exhibit 2



260 North Elm Street

Westfield, MA 01085

(413) 564-5738

<http://www.mestek.com>

May 26, 2022

VIA FEDERAL EXPRESS &
E-MAIL (b) (6), (b) (7)(C)@smart-swgcrc.org

(b) (6), (b) (7)(C)

Sheet Metal Workers International
Association, AFL-CIO
Local #68
1020 S Industrial Blvd
Euless, TX 76040

Re: Termination of CBA and Anticipatory Withdrawal of Recognition

Dear (b) (6), (b) (7)(C)

The parties 'Collective Bargaining Agreement (hereinafter "CBA") had an initial term that expired on July 31, 2021. The CBA automatically renewed for a one-year term that ends on July 31, 2022. The purpose of this letter is to terminate the CBA pursuant to Article 35. In accordance with Article 35, this means this CBA will be terminated as of August 1, 2022. Please also note that given the Union inactivity and the lack of negotiation, we will also be filing a RM petition with the NLRB to determine whether the Union has continued majority support and whether a decertification election should occur. In the interim, please let us know whether the Union wishes to voluntarily disclaim interest in continued representation of the bargaining unit.

Thank you for your prompt attention this matter. Do not hesitate to reach out with any questions that you may have.

Very truly yours,

MESTEK, INC.

(b) (6), (b) (7)(C)

FORM NLRB-5081
(3-11)

NATIONAL LABOR RELATIONS BOARD

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office.
If additional space is required, please add a page and identify item number.

CASE NAME

Mestek, Inc. and Sheet Metal Workers International Association AFL-CIO, Local #68

CASE NUMBER

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

Mestek, Inc.

2. TYPE OF ENTITY

☒ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION OR LLC

A. STATE OF INCORPORATION OR FORMATION B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

Pennsylvania

260 North Elm Street, Westfield, MA 01085

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed)

HVAC equipment and building envelope industries

7A. PRINCIPAL LOCATION

7B. BRANCH LOCATIONS

4830 Transport Drive, Dallas, TX 75247

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL

100s

B. AT THE ADDRESS INVOLVED IN THIS MATTER

100s

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☒ 12 MONTHS or ☐ FISCAL YEAR FY DATES

A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.

YES

NO

X

B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.

C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount.

D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount.

E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.

F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.

G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount.

H. Gross Revenues from all sales or performance of services (Check the largest amount):
☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.

X

I. Did you begin operations within the last 12 months? If yes, specify date:

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYEE GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group)

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME
(b) (6), (b) (7)(C)

TITLE
(b) (6), (b) (7)(C)

E-MAIL ADDRESS
(b) (6), (b) (7)(C) @mestek.com

TEL. NUMBER
(b) (6), (b) (7)(C)

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE

(b) (6), (b) (7)(C)

SIGNATURE

(b) (6), (b) (7)(C)

E-MAIL ADDRESS

(b) (6), (b) (7)(C) @mestek.com

DATE

8/2/2022

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74912-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 16
819 Taylor Street, Room 8A24
Fort Worth, TX 76102-6107

Agency Website: www.nlrb.gov
Telephone: (817)978-2921
Fax: (817)978-2928



Download
NLRB
Mobile App

August 9, 2022

URGENT

MESTEK, INC.
4830 TRANSPORT DR
DALLAS, TX 75247

BRENDAN L. HUGHES, ESQ
SULLIVAN, HAYES & QUINN, LLC
ONE MONARCH PLACE
STE 1200
SPRINGFIELD, MA 01144-1200
Email: brendan.hughes@sullivanandhayes.com

Re: Mestek, Inc.
Case 16-RM-300970

DEAR PARTIES:

The enclosed petition that you filed with the National Labor Relations Board (NLRB) has been assigned the above case number. After a petition is filed, the employer is required to promptly take certain actions so please read this letter carefully to make sure you are aware of the employer's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the requirement to post and distribute the Notice of Petition for Election, the requirement to complete and serve a Statement of Position Form, the Petitioner's requirement to complete and serve a Responsive Statement of Position Form, a scheduled hearing in this matter, other information needed including a voter list, your right to be represented, and NLRB procedures, including how to submit documents to the NLRB.

Investigator: This petition will be investigated by Field Examiner PAUL SYKES whose telephone number is (682)703-7788. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If the agent is not available, you may contact Supervisory Field Examiner MEIKE ZIEGLER whose telephone number is (682)703-7226. If appropriate, the NLRB attempts to

schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

Required Posting and Distribution of Notice: You must post the enclosed Notice of Petition for Election by **Tuesday, August 16, 2022**, in conspicuous places, including all places where notices to employees are customarily posted. The Notice of Petition for Election must be posted so all pages are simultaneously visible. If you customarily communicate with your employees electronically, you must also distribute the notice electronically to them. You must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Posting and distribution of the Notice of Petition for Election will inform the employees whose representation is at issue and the employer of their rights and obligations under by the National Labor Relations Act in the representation context. Failure to post or distribute the notice may be grounds for setting aside the election if proper and timely objections are filed.

Originals of Good Faith Uncertainty: If you submitted by E-Filing or facsimile, evidence supporting a good faith uncertainty, the original documents containing handwritten signatures must be delivered to the Regional office within **2 business days after the filing**. If the originals are not received within that time the Region will dismiss your petition.

Responsive Statement of Position: The Employer-Petitioner must file a Responsive Statement of Position and submit it to an NLRB Office in the Region in which the petition was filed such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing, and serve it and any attachments on each party named in the petition in this case. The Employer-Petitioner shall file a list of the employee names and related information in the manner set forth in the instructional sheet to this Form. You should also complete and file with the Board a Questionnaire on Commerce Information. If another party has submitted and served on you a timely Statement of Position to an RM petition, the Petitioner-Employer must also include its response to each issue raised in another party's statement of position. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner-Employer.

List of Employees: The Employer's Responsive Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Notice of Hearing: Enclosed is a Notice of Hearing to be conducted at **9:00 AM on Monday, August 29, 2022, by Videoconference**, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the Regional Director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the Regional Director may postpone the hearing. A party desiring postponement should make the request to the Regional Director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Other Information Needed Now: Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any of your employees in the unit involved in the petition (the petitioned-for unit);
- (b) The name and contact information for any other labor organization (union) claiming to represent any of the employees in the petitioned-for unit;
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.

Voter List: If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. I am advising you of this requirement now, so that you will have ample time to prepare this list. When feasible, the list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, www.nlr.gov, or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



TIMOTHY L. WATSON
REGIONAL DIRECTOR

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)



National Labor Relations Board



NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that MESTEK, INC. has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 16-RM-300970 seeking an election to determine if its employees in the unit set forth below wish to be represented by SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, LOCAL 68, AFL-CIO for the purposes of collective bargaining:

INCLUDED: All hourly paid production and maintenance employees at its 4830 Transport Drive facility.

EXCLUDED: Other employees, guards and supervisors as defined by the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to www.nlr.gov or contact the NLRB at (817)978-2921.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



National Labor Relations Board





**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 16**



MESTEK, INC. Employer/Petitioner and SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, LOCAL 68, AFL-CIO Union	Case 16-RM-300970
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NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at **9:00 AM on Monday, August 29, 2022**, and on consecutive days thereafter until concluded, **by Videoconference**, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, LOCAL 68, AFL-CIO must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than noon **Friday, August 19, 2022**. MESTEK, INC. shall file and serve its Responsive Statement of Position, which should include a response to any issues raised in the Union's Statement of Position, and a list of the employee names and related information in the manner set forth in Section 102.63(b)(2) of the Board's Rules and Regulations, by no later than **noon, Wednesday, August 24, 2022**.

Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website (www.nlrb.gov), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#)

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Central on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: August 9, 2022

A handwritten signature in black ink, appearing to read "Timothy L. Watson". The signature is fluid and cursive, with the first name "Timothy" and last name "Watson" clearly distinguishable.

TIMOTHY L. WATSON, REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 16
819 TAYLOR STREET
ROOM 8A24
FORT WORTH, TX 76102-6107

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

<p>MESTEK, INC.</p> <p style="text-align: center;">Employer/Petitioner</p> <p style="text-align: center;">and</p> <p>SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, LOCAL 68, AFL-CIO</p> <p style="text-align: center;">Union</p>	<p>Case 16-RM-300970</p>
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AFFIDAVIT OF SERVICE OF: Petition dated August 8, 2022, Notice of Representation Hearing dated August 9, 2022, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on August 9, 2022, I served the above documents by electronic mail upon the following persons, addressed to them at the following addresses:

MESTEK, INC.
4830 TRANSPORT DR
DALLAS, TX 75247

BRENDAN L. HUGHES, ESQ
SULLIVAN, HAYES & QUINN, LLC
ONE MONARCH PLACE
STE 1200
SPRINGFIELD, MA 01144-1200
Email: brendan.hughes@sullivanandhayes.com

(b) (6), (b) (7)(C)
SHEET METAL WORKERS
INTERNATIONAL ASSOCIATION,
LOCAL 68, AFL-CIO
1020 S INDUSTRIAL BLVD
EULESS, TX 76040-5841
Email: (b) (6), (b) (7)(C)@smart-swgcrc.org

August 9, 2022

Date

Cynthia Davis, Designated Agent of NLRB

Name



Signature

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

Right to be Represented – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at www.nlr.gov or forward it to the NLRB Regional Office handling the petition as soon as possible.

Filing and Service of Petition – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

Notice of Hearing – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

Hearing Postponement: Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website (www.nlr.gov) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Statement of Position Form and List(s) of Employees – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on

the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Responsive Statement of Position – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Posting and Distribution of Notice of Petition for Election – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

Election Agreements – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

Hearing Cancellation Based on Agreement of the Parties – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

Hearing – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

Purpose of Hearing: The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

Issues at Hearing: Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

Preclusion: At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Conduct of Hearing: If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

Official Record: An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

Motions and Objections: All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

Election Details: Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the

eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

Oral Argument and Briefs: Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, www.nlr.gov.

Regional Director Decision - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

Voter List – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

Waiver of Time to Use Voter List – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

Election – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

Withdrawal or Dismissal – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM

Completing and Filing this Form: The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at www.nlrb.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.

Required Lists: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

Consequences of Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE

Case No.

16-RM-300970

Date Filed

August 8, 2022

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position

1c. Business Phone:

1e. Fax No.:

1b. Address (Street and number, city, state, and ZIP code)

1d. Cell No.:

1f. e-Mail Address

2. Do you agree that the NLRB has jurisdiction over the Employer in this case? ☐ Yes ☐ No

(A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)

3. Do you agree that the proposed unit is appropriate? ☐ Yes ☐ No (If not, answer 3a and 3b)

a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards)

b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.

Added

Excluded

4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.

5. Is there a bar to conducting an election in this case? ☐ Yes ☐ No If yes, state the basis for your position.

6. Describe all other issues you intend to raise at the pre-election hearing.

7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at

[www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

(a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B)

(b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)

8a. State your position with respect to the details of any election that may be conducted in this matter. Type: ☐ Manual ☐ Mail ☐ Mixed Manual/Mail

8b. Date(s)

8c. Time(s)

8d. Location(s)

8e. Eligibility Period (e.g. special eligibility formula)

8f. Last Payroll Period Ending Date

8g. Length of payroll period
☐ Weekly ☐ Biweekly ☐ Other (specify length)

9. Representative who will accept service of all papers for purposes of the representation proceeding

9a. Full name and title of authorized representative

9b. Signature of authorized representative

9c. Date

9d. Address (Street and number, city, state, and ZIP code)

9e. e-Mail Address

9f. Business Phone No.:

9g. Fax No.

9h. Cell No.

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER

16-RM-300970

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

YES

NO

A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$ _____B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____H. **Gross Revenues** from all sales or performance of services (Check the largest amount)☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. Did you **begin operations within the last 12 months**? If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM

Completing and Filing this Form: For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at www.NLRB.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from www.NLRB.gov, the form will lock upon signature and no further editing may be made.**

Required List: In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx

Consequences of Failure to Submit a Responsive Statement of Position: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION

DO NOT WRITE IN THIS SPACE

Case No.
16-RM-300970

Date Filed
August 8, 2022

INSTRUCTIONS: If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

The Employer

An Intervenor/Union

1a. Full Name of Party Filing Responsive Statement of Position

1c. Business Phone

1d. Cell No.

1e. Fax No.

1f. E-Mail Address

1b. Address (Street and Number, City, State, and ZIP Code)

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

a. EMPLOYER NAME/IDENTITY [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

b. JURISDICTION [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

c. APPROPRIATENESS OF UNIT [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

d. INDIVIDUAL ELIGIBILITY [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

e. BARS TO ELECTION [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

f. ALL OTHER ISSUES [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

g. ELECTION DETAILS [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative

Signature of Authorized Representative

Date

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 16
819 Taylor Street, Room 8A24
Fort Worth, TX 76102-6107

Agency Website: www.nlr.gov
Telephone: (817)978-2921
Fax: (817)978-2928



Download
NLRB
Mobile App

August 9, 2022

URGENT

(b) (6), (b) (7)(C)

SHEET METAL WORKERS INTERNATIONAL
ASSOCIATION, LOCAL 68, AFL-CIO
1020 S INDUSTRIAL BLVD
EULESS, TX 76040
Email: khunsuckle@smart-swgcrc.org

Re: Mestek, Inc.
Case 16-RM-300970

DEAR **(b) (6), (b) (7)(C)**

Enclosed is a copy of a petition that MESTEK, INC. filed with the National Labor Relations Board (NLRB) seeking an election involving certain employees for which you are the exclusive collective bargaining representative. Please read this letter carefully to make sure you are aware of the union's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the Employer's requirement to post and distribute the Notice of Petition for Election, the requirement that you complete and serve a Statement of Position Form, the petitioner's requirement to complete and serve a Responsive Statement of Position Form, a scheduled hearing in this matter, other information needed, your right to be represented, and NLRB procedures, including how to submit documents.

Investigator: This petition will be investigated by Field Examiner PAUL SYKES whose telephone number is (682)703-7788. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If the agent is not available, you may contact Supervisory Field Examiner MEIKE ZIEGLER whose telephone number is (682)703-7226. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

The Union's Required Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the union is required to complete the enclosed Statement of Position form, have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by

noon Central Time on Friday, August 19, 2022. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will not be timely if filed on the due date but after noon Central Time.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

The Employer's Required Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the employer is required to complete the enclosed Responsive Statement of Position form (including the attached Commerce Questionnaire), have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by **noon Central Time on Wednesday, August 24, 2022.** This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will not be timely if filed on the due date but after noon Central Time.**

List(s) of Employees: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing.

This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/OptionalFormsforVoterList.docx.

Notice of Hearing: Enclosed is a Notice of Representation Hearing to be conducted at **9:00 AM on Monday, August 29, 2022, by Videoconference**, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the Regional Director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the Regional Director may postpone the hearing. A party desiring a postponement should make the request to the Regional Director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Posting and Distribution of Notice: The Employer must post the enclosed Notice of Petition for Election by **Tuesday, August 16, 2022**, in conspicuous places, including all places where notices to employees are customarily posted. If it customarily communicates electronically with its employees in the petitioned-for unit, it must also distribute the notice electronically to them. The Employer must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Failure to post or distribute the notice may be grounds for setting aside the election if proper and timely objections are filed.

Other Information Needed Now: Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) The correct name of the Union as stated in its constitution or bylaws.
- (b) A copy of any existing or recently expired collective-bargaining agreements, and any addenda or extensions, or any recognition agreements covering any employees in the petitioned-for unit.
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) The name and contact information for any other labor organization (union) claiming to represent or have an interest in any of the employees in the petitioned-for unit and for any employer who may be a joint employer of the employees in the proposed unit. Failure to disclose the existence of an interested party may delay the processing of the petition.

Voter List: If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the Employer must file the voter list with the Regional Office. However, a petitioner and/or union entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483, which is available on the NLRB's website or from an NLRB office. A waiver will not be effective unless all parties who are entitled to the voter list agree to waive the same number of days.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before the NLRB. In view of our policy of processing these cases expeditiously, if you wish to be represented, you should obtain representation promptly. Your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the NLRB. Their knowledge regarding this matter was obtained only through access to information that must be made available to any member of the public under the Freedom of Information Act.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, www.nlr.gov, or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy L. Watson", written in a cursive style.

TIMOTHY L. WATSON
REGIONAL DIRECTOR

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)



National Labor Relations Board



NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that MESTEK, INC. has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 16-RM-300970 seeking an election to determine if its employees in the unit set forth below wish to be represented by SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, LOCAL 68, AFL-CIO for the purposes of collective bargaining:

INCLUDED: All hourly paid production and maintenance employees at its 4830 Transport Drive facility.

EXCLUDED: Other employees, guards and supervisors as defined by the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to www.nlr.gov or contact the NLRB at (817)978-2921.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



National Labor Relations Board





**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 16**



MESTEK, INC. Employer/Petitioner and SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, LOCAL 68, AFL-CIO Union	Case 16-RM-300970
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NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at **9:00 AM on Monday, August 29, 2022**, and on consecutive days thereafter until concluded, **by Videoconference**, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, LOCAL 68, AFL-CIO must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than noon **Friday, August 19, 2022**. MESTEK, INC. shall file and serve its Responsive Statement of Position, which should include a response to any issues raised in the Union's Statement of Position, and a list of the employee names and related information in the manner set forth in Section 102.63(b)(2) of the Board's Rules and Regulations, by no later than **noon, Wednesday, August 24, 2022**.

Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website (www.nlrb.gov), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#)

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Central on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: August 9, 2022

A handwritten signature in black ink, reading "Timothy L. Watson". The signature is stylized with a large, looped 'T' and a cursive 'W'.

TIMOTHY L. WATSON, REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 16
819 TAYLOR STREET
ROOM 8A24
FORT WORTH, TX 76102-6107

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

<p>MESTEK, INC.</p> <p style="text-align: center;">Employer/Petitioner</p> <p style="text-align: center;">and</p> <p>SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, LOCAL 68, AFL-CIO</p> <p style="text-align: center;">Union</p>	<p>Case 16-RM-300970</p>
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AFFIDAVIT OF SERVICE OF: Petition dated August 8, 2022, Notice of Representation Hearing dated August 9, 2022, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on August 9, 2022, I served the above documents by electronic mail upon the following persons, addressed to them at the following addresses:

MESTEK, INC.
4830 TRANSPORT DR
DALLAS, TX 75247

BRENDAN L. HUGHES, ESQ
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August 9, 2022

Date

Cynthia Davis, Designated Agent of NLRB

Name



Signature

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

Right to be Represented – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at www.nlr.gov or forward it to the NLRB Regional Office handling the petition as soon as possible.

Filing and Service of Petition – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

Notice of Hearing – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

Hearing Postponement: Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website (www.nlr.gov) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Statement of Position Form and List(s) of Employees – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on

the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Responsive Statement of Position – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Posting and Distribution of Notice of Petition for Election – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

Election Agreements – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

Hearing Cancellation Based on Agreement of the Parties – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

Hearing – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

Purpose of Hearing: The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

Issues at Hearing: Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

Preclusion: At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Conduct of Hearing: If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

Official Record: An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

Motions and Objections: All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

Election Details: Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the

eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

Oral Argument and Briefs: Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, www.nlr.gov.

Regional Director Decision - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

Voter List – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

Waiver of Time to Use Voter List – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

Election – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

Withdrawal or Dismissal – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM

Completing and Filing this Form: The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at www.nlrb.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.

Required Lists: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

Consequences of Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE

Case No.

16-RM-300970

Date Filed

August 8, 2022

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position

1c. Business Phone:

1e. Fax No.:

1b. Address (Street and number, city, state, and ZIP code)

1d. Cell No.:

1f. e-Mail Address

2. Do you agree that the NLRB has jurisdiction over the Employer in this case? ☐ Yes ☐ No

(A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)

3. Do you agree that the proposed unit is appropriate? ☐ Yes ☐ No (If not, answer 3a and 3b)

a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards)

b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.

Added

Excluded

4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.

5. Is there a bar to conducting an election in this case? ☐ Yes ☐ No If yes, state the basis for your position.

6. Describe all other issues you intend to raise at the pre-election hearing.

7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at

[www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

(a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B)

(b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)

8a. State your position with respect to the details of any election that may be conducted in this matter. Type: ☐ Manual ☐ Mail ☐ Mixed Manual/Mail

8b. Date(s)

8c. Time(s)

8d. Location(s)

8e. Eligibility Period (e.g. special eligibility formula)

8f. Last Payroll Period Ending Date

8g. Length of payroll period
☐ Weekly ☐ Biweekly ☐ Other (specify length)

9. Representative who will accept service of all papers for purposes of the representation proceeding

9a. Full name and title of authorized representative

9b. Signature of authorized representative

9c. Date

9d. Address (Street and number, city, state, and ZIP code)

9e. e-Mail Address

9f. Business Phone No.:

9g. Fax No.

9h. Cell No.

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER

16-RM-300970

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

YES

NO

A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$ _____B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____H. **Gross Revenues** from all sales or performance of services (Check the largest amount)☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. Did you **begin operations within the last 12 months**? If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

From: [Fowls, Regina](#)
To: (b) (6), (b) (7)(C) [\[REDACTED\]@smart-swgcrc.org](mailto:[REDACTED]@smart-swgcrc.org)
Cc: [Sykes, Paul](#); [Ziegler, Meike](#); [Gonzalez, Ofelia](#); [Kolb, Kari L.](#)
Subject: Mestek, Inc. -- Case No. 16-RM-300970
Date: Tuesday, August 9, 2022 1:04:00 PM
Attachments: [DCK.16-RM-300970.Letter to Union in RD or RM case.pdf](#)
[PET.16-RM-300970.SIGNED RM PETITION.pdf](#)

Good Afternoon,

Please see the attached Letter to Union in RM Case and Petition in the subject case. Thank you.

Regina Fowls
Program Support Assistant
(346) 227-1370

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
RM PETITION

DO NOT WRITE IN THIS SPACE

Case No.

Date Filed

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlrb.gov, submit an original of this Petition to an NLRB Office in the Region in which the employer concerned is located. The petition must be accompanied by a certificate of service showing service on all parties named in the petition of the following: (1) the petition; (2) Statement of Position form; and (3) Description of Procedures in Certification and Decertification Cases (Form NLRB 4812). The petition must also be accompanied by evidence supporting the statement that a labor organization has made a demand for recognition on the employer or that the employer has good faith uncertainty about majority support for an existing representative. However, if the evidence reveals the names and/or number of employees who no longer wish to be represented, the evidence shall not be served on any party.

1. PURPOSE OF THIS PETITION RM-CERTIFICATION OF REPRESENTATIVE - One or more individuals or labor organizations have presented a claim to the Employer/Petitioner to be recognized as the representative of employees of the Employer/Petitioner or the Employer/Petitioner has a good faith uncertainty about majority support for an existing representative. If a charge under Section 8(b)(7) of the Act has been filed involving the Employer/Petitioner named in this petition, this statement shall not be deemed made. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer/Petitioner:
Mestek, Inc.

2b. Address(es) of Establishment(s) involved (Street and number, City, State, ZIP code):
4830 Transport Dr, Dallas, TX 75247

3a. Employer/Petitioner Representative - Name and Title
Brendan L. Hughes, Esq.

3b. Address (if same as 2b - list (c) same)
One Monarch Place-Suite 1200, Springfield, MA 01144-1200

3c. Tel. No.
(413) 736-4538

3d. Cell No.

3e. Fax No.
(413) 731-8206

3f. E-Mail Address

Brendan.Hughes@sullivanandhayes.com

4a. Type of Establishment (Factory, mine, wholesaler, etc.)
Factory

4b. Principal Product or Service
HVAC and Metal Forming

5a. Description of Unit Involved:
Included:

All hourly paid production and maintenance employees at its 4830 Transport Drive.
Exclude:

5b. City and State where unit is located
Dallas, TX

6. Number of Employees in Unit
See attached list

Unless a charge alleging a violation of Section 8(b)(7) is pending, check EITHER item 7a or 7b, whichever is applicable
☐ 7a. A labor organization made a demand for recognition on the Employer/Petitioner on (Date) _____
☒ 7b. The Employer/Petitioner has a good faith uncertainty about majority support for an existing representative.

8a. Name of Recognized or Certified Bargaining Agent - Name
Sheet Metal Workers International Association AFL-CIO - Local #68

8b. Affiliation, if any:

8c. Address
1020 S Industrial Blvd
Euless, TX 76040

8d. Tel. No.

8e. Cell No.

8f. Fax No.

8g. E-Mail Address
(b) (6), (b) (7)(C) smart-swgcrc.org

9. Date of Recognition or Certification

Unknown-Only have records dated back to 2009

10. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year) 7/31/21

11. Is there now a strike or picketing at the Employer's establishment(s) involved? ☐ No ☒ Yes If so, approximately how many employees are participating? _____ has picketed the Employer since (Month, Day, Year) _____
(Name of Labor Organization)

12. Organizations or individuals other than those named in Item 8, which have a contract with the Employer/Petitioner or represent employees of the Employer/Petitioner or demanded recognition as representatives and other organization and individuals known to have a representative interest in any employees in the unit described in Item 5 above. (If none, so state)
None

12a. Name and affiliation if any
N/A

12b. Address

12c. Tel. No.

12d. Cell No.

12e. Fax No.

12f. E-Mail Address

13. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election
See Position Statement attached Affidavit

13a. Election Type
☐ Manual ☒ Mail ☐ Mixed Manual/Mail

13b. Election Date(s):
As soon as possible

13c. Election Time(s):
As soon as possible

13d. Election Location(s):
N/A

14. Representative of the Employer/Petitioner who will accept service of all papers for purposes of the representation proceeding.
14a. Name and Title:
Brendan L. Hughes, Esq.

14b. Address (street and number, city, State and ZIP code):
Sullivan, Hayes & Quinn, LLC, One Monarch Place, Suite 1200, Springfield, MA 01144-1200

14c. Tel. No.
(413) 736-4538

14d. Cell No.

14e. Fax No.
(413) 731-8206

14f. E-Mail Address

Brendan.Hughes@sullivanandhayes.com

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.
Name (Printed) (b) (6), (b) (7)(C) Signature (b) (6), (b) (7)(C) Date 8/2/2022

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (29 U.S.C. 1011, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to involve its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 16
819 Taylor Street, Room 8A24
Fort Worth, TX 76102-6107

Agency Website: www.nlrb.gov
Telephone: (817)978-2921
Fax: (817)978-2928



Download
NLRB
Mobile App

August 9, 2022

URGENT

(b) (6), (b) (7)(C)

SHEET METAL WORKERS INTERNATIONAL
ASSOCIATION, LOCAL 68, AFL-CIO
1020 S INDUSTRIAL BLVD
EULESS, TX 76040
Email (b) (6), (b) (7)(C)@smart-swgcrc.org

Re: Mestek, Inc.
Case 16-RM-300970

DEAR (b) (6), (b) (7)(C)

Enclosed is a copy of a petition that MESTEK, INC. filed with the National Labor Relations Board (NLRB) seeking an election involving certain employees for which you are the exclusive collective bargaining representative. Please read this letter carefully to make sure you are aware of the union's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the Employer's requirement to post and distribute the Notice of Petition for Election, the requirement that you complete and serve a Statement of Position Form, the petitioner's requirement to complete and serve a Responsive Statement of Position Form, a scheduled hearing in this matter, other information needed, your right to be represented, and NLRB procedures, including how to submit documents.

Investigator: This petition will be investigated by Field Examiner PAUL SYKES whose telephone number is (682)703-7788. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If the agent is not available, you may contact Supervisory Field Examiner MEIKE ZIEGLER whose telephone number is (682)703-7226. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

The Union's Required Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the union is required to complete the enclosed Statement of Position form, have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by

noon Central Time on Friday, August 19, 2022. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will not be timely if filed on the due date but after noon Central Time.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

The Employer's Required Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the employer is required to complete the enclosed Responsive Statement of Position form (including the attached Commerce Questionnaire), have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by **noon Central Time on Wednesday, August 24, 2022.** This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will not be timely if filed on the due date but after noon Central Time.**

List(s) of Employees: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing.

This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/OptionalFormsforVoterList.docx.

Notice of Hearing: Enclosed is a Notice of Representation Hearing to be conducted at **9:00 AM on Monday, August 29, 2022, by Videoconference**, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the Regional Director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the Regional Director may postpone the hearing. A party desiring a postponement should make the request to the Regional Director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Posting and Distribution of Notice: The Employer must post the enclosed Notice of Petition for Election by **Tuesday, August 16, 2022**, in conspicuous places, including all places where notices to employees are customarily posted. If it customarily communicates electronically with its employees in the petitioned-for unit, it must also distribute the notice electronically to them. The Employer must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Failure to post or distribute the notice may be grounds for setting aside the election if proper and timely objections are filed.

Other Information Needed Now: Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) The correct name of the Union as stated in its constitution or bylaws.
- (b) A copy of any existing or recently expired collective-bargaining agreements, and any addenda or extensions, or any recognition agreements covering any employees in the petitioned-for unit.
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) The name and contact information for any other labor organization (union) claiming to represent or have an interest in any of the employees in the petitioned-for unit and for any employer who may be a joint employer of the employees in the proposed unit. Failure to disclose the existence of an interested party may delay the processing of the petition.

Voter List: If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the Employer must file the voter list with the Regional Office. However, a petitioner and/or union entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483, which is available on the NLRB's website or from an NLRB office. A waiver will not be effective unless all parties who are entitled to the voter list agree to waive the same number of days.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before the NLRB. In view of our policy of processing these cases expeditiously, if you wish to be represented, you should obtain representation promptly. Your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the NLRB. Their knowledge regarding this matter was obtained only through access to information that must be made available to any member of the public under the Freedom of Information Act.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, www.nlr.gov, or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy L. Watson". The signature is fluid and cursive, with the first name "Timothy" and last name "Watson" clearly distinguishable.

TIMOTHY L. WATSON
REGIONAL DIRECTOR

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)



National Labor Relations Board



NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that MESTEK, INC. has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 16-RM-300970 seeking an election to determine if its employees in the unit set forth below wish to be represented by SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, LOCAL 68, AFL-CIO for the purposes of collective bargaining:

INCLUDED: All hourly paid production and maintenance employees at its 4830 Transport Drive facility.

EXCLUDED: Other employees, guards and supervisors as defined by the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to www.nlr.gov or contact the NLRB at (817)978-2921.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



National Labor Relations Board





**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 16**



MESTEK, INC. Employer/Petitioner and SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, LOCAL 68, AFL-CIO Union	Case 16-RM-300970
--	--------------------------

NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at **9:00 AM on Monday, August 29, 2022**, and on consecutive days thereafter until concluded, **by Videoconference**, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, LOCAL 68, AFL-CIO must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than noon **Friday, August 19, 2022**. MESTEK, INC. shall file and serve its Responsive Statement of Position, which should include a response to any issues raised in the Union's Statement of Position, and a list of the employee names and related information in the manner set forth in Section 102.63(b)(2) of the Board's Rules and Regulations, by no later than **noon, Wednesday, August 24, 2022**.

Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website (www.nlrb.gov), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#)

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Central on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: August 9, 2022

A handwritten signature in black ink, reading "Timothy L. Watson". The signature is stylized with a large, flowing 'T' and 'W'.

TIMOTHY L. WATSON, REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 16
819 TAYLOR STREET
ROOM 8A24
FORT WORTH, TX 76102-6107

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

DESCRIPTION OF REPRESENTATION CASE PROCEDURES
IN CERTIFICATION AND DECERTIFICATION CASES

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

Right to be Represented – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at www.nlr.gov or forward it to the NLRB Regional Office handling the petition as soon as possible.

Filing and Service of Petition – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

Notice of Hearing – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

Hearing Postponement: Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website (www.nlr.gov) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Statement of Position Form and List(s) of Employees – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on

the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Responsive Statement of Position – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Posting and Distribution of Notice of Petition for Election – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

Election Agreements – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

Hearing Cancellation Based on Agreement of the Parties – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

Hearing – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

Purpose of Hearing: The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

Issues at Hearing: Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

Preclusion: At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Conduct of Hearing: If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

Official Record: An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

Motions and Objections: All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

Election Details: Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the

eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

Oral Argument and Briefs: Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, www.nlr.gov.

Regional Director Decision - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

Voter List – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

Waiver of Time to Use Voter List – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

Election – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

Withdrawal or Dismissal – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM

Completing and Filing this Form: The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at www.nlrb.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.

Required Lists: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

Consequences of Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE

Case No.

16-RM-300970

Date Filed

August 8, 2022

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b.)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative		9b. Signature of authorized representative	9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER

16-RM-300970

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

YES

NO

A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$ _____

B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____

C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____

D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____

E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____

F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____

G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____

H. Gross Revenues from all sales or performance of services (Check the largest amount)

☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

From: [Fowls, Regina](#)
To: brendan.hughes@sullivanandhayes.com
Cc: [Sykes, Paul](#); [Ziegler, Meike](#); [Gonzalez, Ofelia](#); [Kolb, Kari L.](#)
Subject: Mestek, Inc. -- Case No. 16-RM-300970
Date: Tuesday, August 9, 2022 1:04:00 PM
Attachments: [DCK.16-RM-300970.Letter to Employer Petitioner in RM case.pdf](#)
[PET.16-RM-300970.SIGNED RM PETITION.pdf](#)

Good Afternoon,

Please see the attached Letter to Employer-Petitioner in RM Case and Petition in the subject case.
Thank you.

Regina Fowls
Program Support Assistant
(346) 227-1370

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
RM PETITION

DO NOT WRITE IN THIS SPACE

Case No.

Date Filed

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlrb.gov, submit an original of this Petition to an NLRB Office in the Region in which the employer concerned is located. The petition must be accompanied by a certificate of service showing service on all parties named in the petition of the following: (1) the petition; (2) Statement of Position form; and (3) Description of Procedures in Certification and Decertification Cases (Form NLRB 4812). The petition must also be accompanied by evidence supporting the statement that a labor organization has made a demand for recognition on the employer or that the employer has good faith uncertainty about majority support for an existing representative. However, if the evidence reveals the names and/or number of employees who no longer wish to be represented, the evidence shall not be served on any party.

1. PURPOSE OF THIS PETITION RM-CERTIFICATION OF REPRESENTATIVE - One or more individuals or labor organizations have presented a claim to the Employer/Petitioner to be recognized as the representative of employees of the Employer/Petitioner or the Employer/Petitioner has a good faith uncertainty about majority support for an existing representative. If a charge under Section 8(b)(7) of the Act has been filed involving the Employer/Petitioner named in this petition, this statement shall not be deemed made. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer/Petitioner:
Mestek, Inc.

2b. Address(es) of Establishment(s) involved (Street and number, City, State, ZIP code):
4830 Transport Dr, Dallas, TX 75247

3a. Employer/Petitioner Representative - Name and Title:
Brendan L. Hughes, Esq.

3b. Address (if same as 2b - list (c) same)
One Monarch Place-Suite 1200, Springfield, MA 01144-1200

3c. Tel. No.
(413) 736-4538

3d. Cell No.

3e. Fax No.
(413) 731-8206

3f. E-Mail Address

Brendan.Hughes@sullivanandhayes.com

4a. Type of Establishment (Factory, mine, wholesaler, etc.)
Factory

4b. Principal Product or Service
HVAC and Metal Forming

5a. Description of Unit Involved:
Included:

All hourly paid production and maintenance employees at its 4830 Transport Drive.
Exclude:

5b. City and State where unit is located
Dallas, TX

6. Number of Employees in Unit
See attached list

Unless a charge alleging a violation of Section 8(b)(7) is pending, check EITHER item 7a or 7b, whichever is applicable:
☐ 7a. A labor organization made a demand for recognition on the Employer/Petitioner on (Date) _____
☒ 7b. The Employer/Petitioner has a good faith uncertainty about majority support for an existing representative.

8a. Name of Recognized or Certified Bargaining Agent - Name
Sheet Metal Workers International Association AFL-CIO - Local #68

8b. Affiliation, if any:

8c. Address
1020 S Industrial Blvd
Euless, TX 76040

8d. Tel. No.

8e. Cell No.

8f. Fax No.

8g. E-Mail Address
(b) (6), (b) (7)(C) smart-swgcrc.org

9. Date of Recognition or Certification

Unknown-Only have records dated back to 2009

10. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year) 7/31/21

11. Is there now a strike or picketing at the Employer's establishment(s) involved? ☒ No ☐ Yes If so, approximately how many employees are participating? _____ has picketed the Employer since (Month, Day, Year) _____
(Name of Labor Organization)

12. Organizations or individuals other than those named in Item 8, which have a contract with the Employer/Petitioner or represent employees of the Employer/Petitioner or demanded recognition as representatives and other organization and individuals known to have a representative interest in any employees in the unit described in Item 5 above. (If none, so state)
None

12a. Name and affiliation if any
N/A

12b. Address

12c. Tel. No.

12d. Cell No.

12e. Fax No.

12f. E-Mail Address

13. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election
See Position Statement attached Affidavit

13a. Election Type
☐ Manual ☒ Mail ☐ Mixed Manual/Mail

13b. Election Date(s):
As soon as possible

13c. Election Time(s):
As soon as possible

13d. Election Location(s):
N/A

14. Representative of the Employer/Petitioner who will accept service of all papers for purposes of the representation proceeding.
14a. Name and Title:
Brendan L. Hughes, Esq.

14b. Address (street and number, city, State and ZIP code):
Sullivan, Hayes & Quinn, LLC, One Monarch Place, Suite 1200, Springfield, MA 01144-1200

14c. Tel. No.
(413) 736-4538

14d. Cell No.

14e. Fax No.
(413) 731-8206

14f. E-Mail Address

Brendan.Hughes@sullivanandhayes.com

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.
Name (Printed) (b) (6), (b) (7)(C) Signature (b) (6), (b) (7)(C) Date 8/2/2020

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (29 U.S.C. 1501, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to involve its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 16
819 Taylor Street, Room 8A24
Fort Worth, TX 76102-6107

Agency Website: www.nlrb.gov
Telephone: (817)978-2921
Fax: (817)978-2928



Download
NLRB
Mobile App

August 9, 2022

URGENT

MESTEK, INC.
4830 TRANSPORT DR
DALLAS, TX 75247

BRENDAN L. HUGHES, ESQ
SULLIVAN, HAYES & QUINN, LLC
ONE MONARCH PLACE
STE 1200
SPRINGFIELD, MA 01144-1200
Email: brendan.hughes@sullivanandhayes.com

Re: Mestek, Inc.
Case 16-RM-300970

DEAR PARTIES:

The enclosed petition that you filed with the National Labor Relations Board (NLRB) has been assigned the above case number. After a petition is filed, the employer is required to promptly take certain actions so please read this letter carefully to make sure you are aware of the employer's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the requirement to post and distribute the Notice of Petition for Election, the requirement to complete and serve a Statement of Position Form, the Petitioner's requirement to complete and serve a Responsive Statement of Position Form, a scheduled hearing in this matter, other information needed including a voter list, your right to be represented, and NLRB procedures, including how to submit documents to the NLRB.

Investigator: This petition will be investigated by Field Examiner PAUL SYKES whose telephone number is (682)703-7788. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If the agent is not available, you may contact Supervisory Field Examiner MEIKE ZIEGLER whose telephone number is (682)703-7226. If appropriate, the NLRB attempts to

schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

Required Posting and Distribution of Notice: You must post the enclosed Notice of Petition for Election by **Tuesday, August 16, 2022**, in conspicuous places, including all places where notices to employees are customarily posted. The Notice of Petition for Election must be posted so all pages are simultaneously visible. If you customarily communicate with your employees electronically, you must also distribute the notice electronically to them. You must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Posting and distribution of the Notice of Petition for Election will inform the employees whose representation is at issue and the employer of their rights and obligations under by the National Labor Relations Act in the representation context. Failure to post or distribute the notice may be grounds for setting aside the election if proper and timely objections are filed.

Originals of Good Faith Uncertainty: If you submitted by E-Filing or facsimile, evidence supporting a good faith uncertainty, the original documents containing handwritten signatures must be delivered to the Regional office within **2 business days after the filing**. If the originals are not received within that time the Region will dismiss your petition.

Responsive Statement of Position: The Employer-Petitioner must file a Responsive Statement of Position and submit it to an NLRB Office in the Region in which the petition was filed such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing, and serve it and any attachments on each party named in the petition in this case. The Employer-Petitioner shall file a list of the employee names and related information in the manner set forth in the instructional sheet to this Form. You should also complete and file with the Board a Questionnaire on Commerce Information. If another party has submitted and served on you a timely Statement of Position to an RM petition, the Petitioner-Employer must also include its response to each issue raised in another party's statement of position. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner-Employer.

List of Employees: The Employer's Responsive Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Notice of Hearing: Enclosed is a Notice of Hearing to be conducted at **9:00 AM on Monday, August 29, 2022, by Videoconference**, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the Regional Director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the Regional Director may postpone the hearing. A party desiring postponement should make the request to the Regional Director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Other Information Needed Now: Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any of your employees in the unit involved in the petition (the petitioned-for unit);
- (b) The name and contact information for any other labor organization (union) claiming to represent any of the employees in the petitioned-for unit;
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.

Voter List: If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. I am advising you of this requirement now, so that you will have ample time to prepare this list. When feasible, the list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, www.nlr.gov, or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



TIMOTHY L. WATSON
REGIONAL DIRECTOR

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)



National Labor Relations Board



NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that MESTEK, INC. has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 16-RM-300970 seeking an election to determine if its employees in the unit set forth below wish to be represented by SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, LOCAL 68, AFL-CIO for the purposes of collective bargaining:

INCLUDED: All hourly paid production and maintenance employees at its 4830 Transport Drive facility.

EXCLUDED: Other employees, guards and supervisors as defined by the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to www.nlr.gov or contact the NLRB at (817)978-2921.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



National Labor Relations Board





**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 16**



MESTEK, INC. Employer/Petitioner and SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, LOCAL 68, AFL-CIO Union	Case 16-RM-300970
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NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at **9:00 AM on Monday, August 29, 2022**, and on consecutive days thereafter until concluded, **by Videoconference**, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, LOCAL 68, AFL-CIO must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than noon **Friday, August 19, 2022**. MESTEK, INC. shall file and serve its Responsive Statement of Position, which should include a response to any issues raised in the Union's Statement of Position, and a list of the employee names and related information in the manner set forth in Section 102.63(b)(2) of the Board's Rules and Regulations, by no later than **noon, Wednesday, August 24, 2022**.

Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website (www.nlrb.gov), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#)

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Central on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: August 9, 2022

A handwritten signature in black ink, reading "Timothy L. Watson". The signature is stylized with a large, flowing "T" and "W".

TIMOTHY L. WATSON, REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 16
819 TAYLOR STREET
ROOM 8A24
FORT WORTH, TX 76102-6107

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

Right to be Represented – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at www.nlr.gov or forward it to the NLRB Regional Office handling the petition as soon as possible.

Filing and Service of Petition – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

Notice of Hearing – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

Hearing Postponement: Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website (www.nlr.gov) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Statement of Position Form and List(s) of Employees – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on

the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Responsive Statement of Position – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Posting and Distribution of Notice of Petition for Election – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

Election Agreements – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

Hearing Cancellation Based on Agreement of the Parties – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

Hearing – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

Purpose of Hearing: The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

Issues at Hearing: Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

Preclusion: At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Conduct of Hearing: If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

Official Record: An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

Motions and Objections: All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

Election Details: Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the

eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

Oral Argument and Briefs: Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, www.nlr.gov.

Regional Director Decision - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

Voter List – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

Waiver of Time to Use Voter List – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

Election – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

Withdrawal or Dismissal – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM

Completing and Filing this Form: The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at www.nlrb.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.

Required Lists: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

Consequences of Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE

Case No.

16-RM-300970

Date Filed

August 8, 2022

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b.)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative		9b. Signature of authorized representative	9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER

16-RM-300970

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

YES

NO

A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$ _____B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____H. **Gross Revenues** from all sales or performance of services (Check the largest amount)☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. Did you **begin operations within the last 12 months**? If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM

Completing and Filing this Form: For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at www.NLRB.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from www.NLRB.gov, the form will lock upon signature and no further editing may be made.**

Required List: In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Consequences of Failure to Submit a Responsive Statement of Position: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION

DO NOT WRITE IN THIS SPACE

Case No.

16-RM-300970

Date Filed

August 8, 2022

INSTRUCTIONS: If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

The Employer

An Intervenor/Union

1a. Full Name of Party Filing Responsive Statement of Position

1c. Business Phone

1d. Cell No.

1e. Fax No.

1f. E-Mail Address

1b. Address (Street and Number, City, State, and ZIP Code)

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

a. EMPLOYER NAME/IDENTITY [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required)

☐ Dispute (response required below)

Response to Statement of Position:

b. JURISDICTION [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required)

☐ Dispute (response required below)

Response to Statement of Position:

c. APPROPRIATENESS OF UNIT [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required)

☐ Dispute (response required below)

Response to Statement of Position:

d. INDIVIDUAL ELIGIBILITY [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required)

☐ Dispute (response required below)

Response to Statement of Position:

e. BARS TO ELECTION [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required)

☐ Dispute (response required below)

Response to Statement of Position:

f. ALL OTHER ISSUES [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required)

☐ Dispute (response required below)

Response to Statement of Position:

g. ELECTION DETAILS [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required)

☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative

Signature of Authorized Representative

Date

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.

From: [Calvin](#)
To: [Sykes, Paul](#)
Subject: Disclaimer
Date: Sunday, August 28, 2022 10:23:15 PM

CAUTION: The sender of this message is external to the NLRB network. Please use care when clicking on links and responding with sensitive information. Forward suspicious emails to nrbirc@nlrb.gov<<mailto:nrbirc@nlrb.gov>>.

Mr. Sykes

Please be advised that the Sheet Metal Workers Local Union 68 here by waives and disclaims the right to represent any employees involved in Case 16-RM-300970.

Respectfully
Calvin Jennings
Business Mgr/FST
Sheet Metal Workers
Local Union 68

Sent from my iPhone

From: Brendan Hughes <Brendan.Hughes@sullivanandhayes.com>
Sent: Monday, August 29, 2022 12:05 PM
To: Sykes, Paul
Cc: (b) (6), (b) (7)(C)
Subject: RE: Disclaimer

CAUTION: The sender of this message is external to the NLRB network. Please use care when clicking on links and responding with sensitive information. Forward suspicious emails to [nlrbirc@nrlb.gov](mailto:nlrbcirc@nrlb.gov)<<mailto:nlrbcirc@nrlb.gov>>.

Dear Paul:

Thank you for confirming. Given that the Union has formally disclaimed interest in the below writing, we will formally withdraw our petition. As I discussed on the phone, we will look through our files to see if we can obtain information to assist in determining the initial certification date. Thank you for all of your assistance and please let me know if you need anything else from us with respect to this matter.

Regards, Brendan

/s/ Brendan L. Hughes

Brendan L. Hughes, Esq.
Brendan.Hughes@sullivanandhayes.com

SHQ File: MI-50

<https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.sullivanandhayes.com%2F&data=05%7C01%7CPaul.Sykes%40nrlb.gov%7C18a642a25c744f06357208da89d83608%7C5e453ed8e33843bb90754ed5b8a8caa4%7C0%7C0%7C637973858956622968%7CUnknown%7CTWFpbGZsb3d8eyJWlloiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikl1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=5WEKG1YnxfiN%2B5lbSH%2F%2B99jxMwQTGjg3y2JNJpUpx%2BU%3D&reserved=0>

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-----Original Message-----

From: Sykes, Paul <Paul.Sykes@nrlb.gov>
Sent: Monday, August 29, 2022 9:46 AM
To: Brendan Hughes <Brendan.Hughes@sullivanandhayes.com>

Subject: FW: Disclaimer

Brendan,

I do not know if you received this yet, but Mr. Jennings sent me this email on Sunday disclaiming interest.

Based on this would the Employer like to withdraw the petition? Does your client happen to know the approximate year the Union was first certified? If not that is okay, but when we approve a withdrawal request we revoke the original NLRB certification.

Paul

-----Original Message-----

From: Calvin (b) (6), (b) (7)(C) >

Sent: Sunday, August 28, 2022 9:23 PM

To: Sykes, Paul

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.proofpoint.com%2Fv%2Furl%3Fu%3Dhttp-3A__Paul.Sykes-40nlrb.gov%26d%3DDwIFAg%26c%3DeuGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM%26r%3DgBNk8KkvVIIAq7pyjUPEVhJ_7ddcN3zxez6au9HiyD4Rgd8zWkwiRtZ3UsixZNCR%26m%3DwvF AVLLzcMli5cJNOLi1X1Jf8BYTjayPpONG13w-efE%26s%3DErmizAk72TFMk2cv1v9PjEshNtSD33OXAnZeMZobusQ%26e%3D&data=05%7C01%7CPaul.Sykes%40nlrb.gov%7C18a642a25c744f06357208da89d83608%7C5e453ed8e33843bb90754ed5b8a8caa4%7C0%7C0%7C637973858956622968%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTil6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&data=b48yAxUKuEnFusCHmkM7vQ29sV9LhzFrS%2B5Frmnb3aU%3D&reserved=0>
Subject: Disclaimer

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Mr. Sykes

Please be advised that the Sheet Metal Workers Local Union 68 here by waives and disclaims the right to represent any employees involved in Case 16-RM-300970.

Respectfully
Calvin Jennings
Business Mgr/FST
Sheet Metal Workers
Local Union 68

Sent from my iPhone



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 16
819 Taylor St Rm 8A24
Fort Worth, TX 76102-6107

Agency Website: www.nlrb.gov
Telephone: (817)978-2921
Fax: (817)978-2928

August 29, 2022

(b) (6), (b) (7)(C)

SHEET METAL WORKERS INTERNATIONAL
ASSOCIATION, LOCAL 68, AFL-CIO
1020 S INDUSTRIAL BLVD
EULESS, TX 76040

Re: MESTEK, INC.
Case 16-RM-300970

DEAR PARTIES:

This is to advise you that on August 29, 2022, we approved without prejudice, withdrawal of the petition in the above case and contemplate no further action in this case.

As described in the collective-bargaining agreement between the Sheet Metal Workers International Association AFL-CIO, Local #68 (Union), and Mestek, Inc. (Petitioner), effective by its terms from July 31, 2016, to July 31, 2022, the Union was recognized as the exclusive collective-bargaining representative of the employees that are included in the unit in the above case. On August 28, 2022, the Union submitted a disclaimer of interest in the continued representation of these employees. Accordingly, any prior Certification of Representative for this unit is revoked.

Very truly yours,

A handwritten signature in cursive script, reading "David A. Foley", is written over a horizontal line.

DAVID A. FOLEY
ACTING REGIONAL DIRECTOR

cc: BRENDAN L. HUGHES, ATTORNEY
SULLIVAN, HAYES & QUINN, LLC
ONE MONARCH PLACE
STE 2000
SPRINGFIELD, MA 01144

MESTEK, INC.
4830 TRANSPORT DR
DALLAS, TX 75247

Case Name: Mestek, Inc.
Case No.: 16-RM-300970
Agent: Field Examiner PAUL SYKES

CASEHANDLING LOG

[illegible]